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THESIS

SECURITY IN TRANSITION:
POLICE REFORM IN EL SALVADOR AND
SOUTH AFRICA

by

Nicole Louise Desilets-Bixler

March 2002

| Thesis Co-Advisors: | Jeanne Giraldo |
| | Maria Rasmussen |

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This thesis studies police reform in El Salvador and South Africa. While both countries differ considerably in geographic size, culture, location, population, and economic and military strength, they share common security concerns. Under authoritarian rule, their primary security concerns were not military threats from other states, but rather internal threats due to economic, political, and social weakness. Civilian police forces became highly politicized and militarized, incapable of controlling crime, lacking accountability and oversight, and exhibiting total disregard for human rights.

This thesis compares El Salvador and South Africa, two cases of *negotiated* war transitions. Although both countries faced similar militarization of internal security forces, South Africa seemed in a much better position to face challenges of consolidation. First, South Africa's military did not pose any opposition to police reform because the military and police had a long history of being organizationally separated. In contrast, El Salvador's police had a history of being controlled and directed by the military and they fell organizationally under the Defense Ministry. Second, in South Africa, the opposition group (ANC) rather than the rightist government won the foundational elections. Increased domestic support for internal security reform is more likely as the previous rightist government is discredited. Conversely, in El Salvador, the rightist ARENA government won the foundational elections indicating that it would more likely lead to lack of domestic support. The continuance of power would likely mean that the government would prefer the continuance of status quo to far-reaching reform.

Finally, the international community was available to aid in the implementation and consolidation of reform in both countries. However, because domestic support was likely to be greater in South Africa, the international community's ability to influence the implementation of reform would also be greater. Yet, the outcome of reform efforts in both countries was surprisingly similar. This can best be explained by the overwhelming obstacles to the consolidation of police reform posed by the conditions of post-conflict societies.

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SECURITY IN TRANSITION: POLICE REFORM IN EL SALVADOR AND SOUTH AFRICA

Nicole L. Desilets-Bixler
Major, New Hampshire Air National Guard
B.S., United States Air Force Academy, 1984

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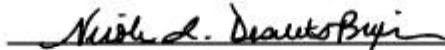
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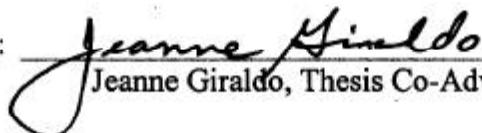
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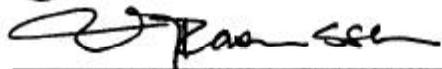
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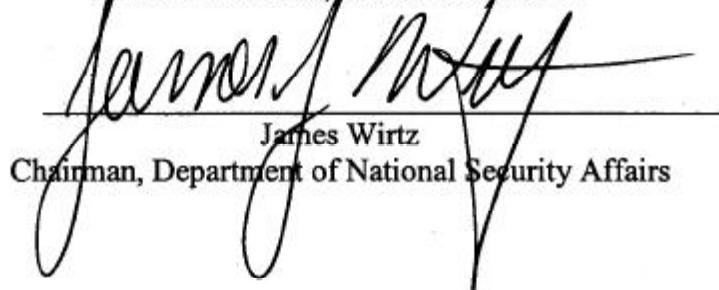
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James Wirtz
Chairman, Department of National Security Affairs

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ABSTRACT

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I. THEORIZING ABOUT POLICE REFORM

Since the end of the Cold War, an unprecedented number of countries have pursued democracy. The legacy of past repression and human rights abuses against the civilian populations has necessarily focused concern on reforming their internal security apparatuses. A central challenge to consolidation of democracy is police reform. Despite the importance of police reform, contemporary theories concerning transitions from authoritarian rule seldom directly address it as part of the democratization of state institutions. Even the most recent studies of "third wave" democratic transitions have largely ignored the developing states' police forces in the reconstitution of state power.[1] However, policing and public security are fundamental to the quality and stability of newly democratic regimes, especially in the areas of human rights, justice, and civil-military relations. While some scholars have included comments on the general role of police in discussions of military politics and civil-military relations, they fail to address how the police should be reorganized, retrained, and managed in order to best serve their communities.[2] In most of the recent studies of democratization, the word "police" does not even appear in the indices.[3]

Nevertheless, police reform is perhaps the most significant dimension of democratic transition. There are three main reasons for this assertion. First, police forces are by far the most visible institution of the democratic state, enforcing the rule of law

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[1] Murray Scot Tanner, "Will the State Bring *You* Back In? Policing and Democratization," Comparative Politics, (October 2000): 101.

[2] One such example is in Alfred Stepan's discussion of military prerogatives in chapter seven of his book, Rethinking Military Politics: Brazil and the Southern Cone (New Jersey: Princeton University Press, 1988), 93-127 (especially p. 96). Stepan discusses the general role of the police for various levels of military prerogatives, but does not suggest any reform methods for the police in transitions to democracy.

[3] Recent studies include: Larry Diamond, Juan J. Linz, and Seymour Martin Lipset, Democracy in Developing Countries: Comparing Experiences with Democracy, Second Edition, (Boulder: Lynne Rienner Publishers, 1999); Larry Diamond, Marc F. Plattner, The Global Resurgence of Democracy, Second Edition (Baltimore: The Johns Hopkins University Press, 1996); Juan J. Linz and Alfred Stepan, Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe (Baltimore: The John Hopkins University Press, 1996); Scott Mainwaring, Guillermo O'Donnell, and J. Samuel Valenzuela, Issues in Democratic Consolidation: The New South American Democracies in Comparative Perspective (Notre Dame: University of Notre Dame Press, 1992); Samuel P. Huntington, The Third Wave: Democratization in the Late Twentieth Century (Norman, OK: University of Oklahoma Press, 1991); and Guillermo O'Donnell, and Philippe C. Schmitter, Transitions from Authoritarian Rule, Volumes I and II, (Baltimore: The Johns Hopkins University Press, 1986).

and protecting the rights of its citizens. Although usually seen as protectors of justice and order, police forces have also inflicted tremendous human suffering throughout the modern era. In the twentieth century, more citizens have died at the hands of their own government military and police forces than have died in battle during all the world's international and civil wars combined.[4] Where brutal security forces have been persistent in murdering and torturing their populations, transformation of these institutions is essential to ensure the safety of the citizens.

Second, police forces are essential to democratic governance and to the relationship of state and society. The meaning behind this is captured in David Bayley's statement, "The police are to the government as the edge is to the knife."[5] Police are expected to keep order in society. How well they carry out their duty shapes society's view of the state and of democracy. Larry Diamond, Juan Linz, and Seymour Martin Lipset suggest the importance of the role of internal order in democratization efforts: "Democratic legitimacy…is shaped (particularly in the early years of a democracy) by the performance of the democratic regime, both economically and politically (through the 'maintenance of civil order, personal security, adjudication and arbitration of argument'…). Historically, the more successful a regime has been in providing what people want, the greater and more deeply rooted its legitimacy has tended to be…"[6]

Third, police forces are an important element of civil-military relations as they are authorized by the state as an institution of armed coercion. In El Salvador and South Africa, as in many other countries with authoritarian pasts, the military and the police have played dominant roles in politics. Thus, the establishment of civilian control over the military is vital to the consolidation of democracy. The influence of the military on the police, especially in authoritarian regimes that have experienced internal conflict, has made the police forces part of that process.[7]

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[4] Rudolph J. Rummel estimates the death toll from governmental mass murder of civilians at 169,202,000 – more than four times the battle toll from for this century's wars up to 1987. Rudolph J. Rummel, "Power, Genocide, and Mass Murder," Journal of Peace Research 31, no. 1 (February 1994): 2

[5] Paul Chevigny, Edge of the Knife: Police Violence in the Americas (New York: The New York Press, 1995), Preface.

[6] Diamond, Linz, and Lipset, 10.

[7] Civil-military relations in transitions to democracy are discussed in several contemporary works. See, Larry Diamond and Marc F. Plattner, Civil-Military Relations and Democracy (Baltimore: The Johns

The police as an institution of democratic consolidation is also referred to obliquely in Juan Linz and Alfred Stepan's five key arenas necessary for successful transition and consolidation. The five arenas are the development of a free and lively civil society, the existence of a relatively autonomous and valued political society, the establishment of a rule of law to legally guarantee citizens' freedoms, the existence of a usable state bureaucracy, and an institutionalized economic society.[8] While the role of the police is of critical importance in all five of Linz and Stepan's arenas, it is especially crucial for democratic consolidation in two of the arenas: rule of law and state apparatus. The legacy of authoritarian rule has a tendency to institutionalize the police forces as the cornerstone of enforcing repressive laws. Likewise, in establishing the rule of law in post-authoritarian societies, the police forces are equally vital to protect citizens' rights and uphold the law. Consolidated democracies also need an "effective capacity to command, regulate, and extract" through a functioning state bureaucracy that is usable by the new democratic government. The police play a critical role in the state's ability to "protect the rights of its citizens, …and to exercise effectively its claim to the monopoly of the legitimate use of force in the territory."[9]

A.   RESEARCH QUESTIONS AND MAIN ARGUMENT

This thesis researches the process of reforming internal security forces in countries transitioning to democracy. What challenges do countries transitioning from authoritarian rule face as they attempt to create an internal security force that is compatible with democracy? This primary question is addressed by examining the internal security reform processes during the transitions to democracy in El Salvador and South Africa. Three secondary questions follow from the primary question. What are the characteristics of internal security forces under authoritarian regimes? What are the kinds of reform necessary to create internal security forces that are capable, subordinate to civilian authority, and respectful of human rights? What are the roles of domestic and

Hopkins University Press, 1996); Felipe Aguero, "The Military and the Limits to Democratization in South America," in Mainwaring, O'Donnell, and Valenzuela, Issues in Democratic Consolidation; and Stepan, Rethinking Military Politics.

[8] Linz and Stepan, 7-15.

[9] Linz and Stepan, 11.

international actors in carrying out these reforms and how do they contribute to their successful formulation and implementation?

The main argument of this thesis has four parts and answers the research questions outlined in the preceding paragraph. ***First*, authoritarian states that experience internal conflict or civil war develop internal security forces that are highly militarized. Three main characteristics illustrate this militarization: (1) the institutional boundaries between the military and the police are blurred and indistinct; (2) civilian police forces become deprofessionalized and incapable of carrying out basic policing duties; and (3) internal security forces lack meaningful mechanisms of accountability to oversee their actions. *Second*, this thesis argues that negotiated war transitions afford key opportunities to reform corrupt and repressive internal security apparatuses. However, the degree and nature of internal security reforms depends on the interests and balance of power of key actors affected by the reform. *Third*, the challenges that affect the consolidation of internal security reform in war transitioning countries are related to post-conflict conditions. *Fourth*, this research argues that negotiated war transitions provide an opening for international actors to affect major police reforms. Although international actors are more likely to have the opportunity to affect police reform during negotiations of peace treaties, their actual level of influence depends on the level of domestic support and the ability of international actors to sustain commitment to those reforms over time.**[10]

This chapter explains the elements of the main argument by first, analyzing the militarization of internal security forces under authoritarian rule. Second, this chapter discusses the imperative for police reform during democratic transition, and establishes the criteria for police reform in transitions to democracy. Third, this chapter discusses the factors that affect the implementation of internal security reform, further explaining the war transitions argument and the challenges to consolidation of reform. Additionally, this chapter also describes the international community's role in influencing the nature of

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[10] Charles T. Call uses the war transitions argument and the term "windows of opportunity" to describe the opening afforded by war transitions. Charles T. Call, "From Soldiers to Cops: War Transitions and the Demilitarization of Policing in Latin America and the Caribbean" (Ph.D. diss., Stanford University, 1999), 6.

internal security forces before, during, and after regime transition, as well as, police reform implementation and consolidation. The findings of this research have implications for application in consolidation of democracy and future democratizing nations.

B. NATURE OF INTERNAL SECURITY STRUCTURES UNDER AUTHORITARIAN REGIMES

In order to understand the nature of internal security structures under authoritarian regimes, it is useful to define what is meant by "authoritarian." Juan Linz defines authoritarian regimes as, "political systems with limited, not responsible, political pluralism, without elaborate and guiding ideology, but with distinctive mentalities, without extensive nor intensive political mobilization, except at some points in their development, and in which a leader or occasionally a small group exercises power within formally ill-defined limits but actually quite predictable ones."[11] This definition calls attention to the fact that in authoritarian regimes, there is limited room for political participation and, especially, for political opposition to the leader or leading party. The security forces, thus, become the enforcing agency of laws intended to control and limit the political expression of excluded portions of the population.

As oppositional groups rise up against exclusionary practices and seek to have their voices heard, internal security forces become more repressive and militarized in their goal to keep the "unrest" at bay. This militarization of the police is accentuated in cases where internal conflict or civil war ensues. In these cases, internal security forces are compelled to use military tactics and weapons to ensure the "survival" of the regime. In many regimes, moving the police forces to the Ministry of Defense and subordinating them to military control emphasized police militarization.

The common thread in the cases of El Salvador and South Africa emphasized by the internal conflicts in each country was the militarization of their internal security forces exhibited through three prominent characteristics. The three most important characteristics of militarization are the blurring of institutional boundaries in internal

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[11] Juan J. Linz, "An Authoritarian Regime: The Case of Spain," in Erik Allardt and Stein Rokkan, (Editors), <u>Mass Politics: Studies in Political Sociology</u> (New York: Free Press, 1970), 255, cited in Linz and Stepan, <u>Problems of Democratic Transition and Consolidation</u>, 38.

security forces, the lack of professionalism of the civilian police, and the absence of mechanisms of accountability.

1.   Lack of Institutional Boundaries in Internal Security Forces

The degree to which institutional boundaries are lacking has varied among the different types of authoritarian regimes. In military regimes, civilian control is nonexistent and in most cases, the military controlled the police. Military leaders and organizations often performed a wide variety of functions, including extensive internal security and civil action roles only distantly related to traditional military missions. In personal dictatorships, the ruler did whatever was necessary to ensure that his agents controlled the military and that the military served his purpose of keeping a tight grip on power. In single-party regimes, the military was used as an instrument of the party. The ultimate loyalty was to the party rather than to the state, as military officers often were required to be party members.

A commonality gleaned through examination of institutional boundaries and civil-military relations within these different authoritarian regime types is the blurring of external and internal threats to national security. This was especially true in many authoritarian nations during the Cold War era, as leftists speaking out against the government were labeled "communist" and a threat to the survival of the regime. Even in communist states, domestic unrest was often seen as externally or "foreign inspired."[12] Groups of citizens were seen as enemies of the state, which justified the use of the military in internal law enforcement. Many internal security structures were reorganized with the civilian police forces under the Ministry of Defense furthering the militarization of internal security forces. On the other hand, even in countries, such as South Africa, where police forces remained separate from the military, the hierarchical structure within the police forces were military in nature, even including military officers in top level positions.

In some authoritarian regimes, such as El Salvador, separate educational institutions did not exist for the military and the police. The police regularly trained with the military at military academies and were required to attend military courses in

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[12] Jeanne K. Giraldo, "Democratizing Civil-Military Relations: What Do Countries Legislate?" Occasional Paper #7 (Monterey, CA: The Center for Civil-Military Relations, June 2001), 19.

counterinsurgency methods. As a result, police and military tactics merged and excessive use of force to control the population became commonplace. Criminals were treated as military enemies of the state and the line between military and police doctrine were blurred. This blurring of institutional boundaries between the military and police led to widespread human rights violations and increased politicization.

The international community further aided the disintegration of institutional boundaries between the military and police. During the Cold War, the United States and its Western allies sided with authoritarian rightist governments, giving the necessary financial and military aid for counterinsurgency operations. At the same time, the Soviet Union and other communist block nations gave military aid to the leftist insurgency groups, thus, justifying in the eyes of some the blurring of institutional boundaries. The Cold War superpowers helped pit authoritarian governments against their citizens in an ideological war, escalating the levels of violence and counterviolence.

2.   Deprofessionalization of Civilian Police

The militarization of police forces under authoritarian regimes and the consequent focus on political repression and use of force renders the police ill equipped for their "traditional" roles of crime detection and prevention. In many cases, the legacy of authoritarian rule has left the police forces unable to perform even the most basic tasks including crime investigation, the gathering of evidence, and arrest procedures. Additionally, these police forces lose legitimacy with the citizens, thus cannot rely on them for intelligence, as the police do in any democratic society.

Police training in many authoritarian regimes tends to be focused on counterinsurgency methods, guerrilla tactics, and use of overwhelming force rather than the controlled application of force necessary for police work. Police recruits are required to attend military academies, where they are trained in the use of military weapons. There also tends to be an emphasis on "coercive techniques" to obtain confessions from would-be insurgents. Over years of repression, the resultant police forces become completely inept at suppressing common crime, investigating criminal cases, and are unaware of the legal procedures necessary to protect citizen's rights.

3.   Absence of Mechanisms of Accountability

Authoritarian regimes have a tendency to legitimize the actions of their police forces by adopting "laws" that define governmental opposition as criminal in nature and dangerous to "national security." In many authoritarian regimes, even peaceful demonstrations were seen as subversive and dangerous to its survival. In South Africa, for example, a plethora of laws throughout the years of apartheid specifically delineated what actions were seen as a "threat" to the national security of the regime. As a result, the police forces were given the lawful authority to act on behalf of the state to uphold discriminatory laws that helped the survival of the regime. Given the legislative nature of apartheid, the police force was a visible element of the system of oppression.

Adding to this problem is the lack of redress methods against authoritarian police forces.[13] Quite often, criminal charges against the police were internally handled with no accountability to an external independent organization, and not surprisingly, intimidation was used against those who came forward with allegations. Other legal devices hampered potential complainants. In addition, victims (especially in rural areas) did not have adequate knowledge of their legal rights and lacked access to qualified lawyers. In most cases, authoritarian legal procedures placed the onus on the person to prove his/her allegations against the police, and even then, the veracity of police accounts was rarely challenged in inquiries.

The state-police relationship in many authoritarian regimes was defined by a type of security mentality, in which every aspect of policing and police work was deemed to be of national security importance and as such, a state secret.[14] This mentality provided that even in cases where there was some notional civilian accountability authority, through a Commissioner of Police or Minister of Law and Order, questions about policing were regularly deflected and never in practice called to account. This important

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[13] Overall, accountability does not exist in authoritarian regimes. Therefore, if the central institutions, such as the Chief Executive, are not accountable, then the same is expected of other institutions, such as the military and the police.

[14] The issue of accountability, national security, and what is considered "secret" are problems that are not limited to authoritarian regimes. This issue is also debated and scrutinized in established Western democracies. For a contemporary example, see K.D. Ewing and C.A. Gearty, Freedom Under Thatcher: Civil Liberties in Modern Britain (Oxford: Clarendon Press, 1990).

element of some democratic policing methods, police accountability to the local communities they serve, was completely absent in authoritarian regimes.[15]

In many authoritarian regimes during the Cold War, ideology played a role in legitimating the discriminatory actions of the government. Attacks on the population and obvious cases of brutality were often overlooked in the name of preventing the spread of communism. Especially during the 1970s and 1980s, the "domino theory" was prominent in U.S. foreign policy, allowing rightist governments to do "whatever it takes" to keep communism in check.[16]

C.   DEMOCRATIC TRANSITION AND THE NEED FOR POLICE REFORM

"Police reform" is an overused and underdefined term in U.S. and British social science. Although many contemporary works use the term, few define it. Police reform in one situation may refer to completely different kinds of changes, depending on the context. For example, in post-communist Eastern Europe, police reform may refer to depoliticization or the removal of communist party influence on the police. The term has also been applied to decentralization of the police in post-war Germany; increased responsiveness to ethnic concerns in the Los Angeles riots and the Brixton disorders in Great Britain; better oversight systems as in the New York City police reforms of the 1990s; and increased effectiveness in crime-fighting as delineated in much of the U.S. literature on police reform in the twentieth century.[17] Studies of police reform (and police reform itself) have focused on the most salient aspects of the problem, based on the crisis or event "triggering" the reform.

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[15] One case study, which outlines the problems of political accountability, is the South African Police (SAP) during apartheid. See Mike Brogden and Clifford Shearing, Policing For a New South Africa (London: Routledge, 1993), 26-40.

[16] This was especially true in US foreign policy initiatives with El Salvador. After the Sandinista victory in July 1979, US foreign policy placed El Salvador on its agenda as the other Central American state facing imminent collapse. See Michael McClintock, The American Connection, Volume one: State Terror and Popular Resistance in El Salvador (London: Zed Books, 1985), Chapter 13.

[17] Examples of this include: Lou Cannon, Official Negligence: How Rodney King and the Riots Changed Los Angeles and the LAPD (New York: Time Books, 1997); Pamela K. Lattimore, James Trudeau, K. Jack Riley, Jordan Leiter, and Steven Edwards, Homicide in Eight U.S. Cities: Trends, Context, and Policy Implications (Washington DC: Department of Justice, National Institute of Justice, 1997); Jeffrey Fagan, Franklin E. Zimring, and June Kim, "Declining Homicide in New York City: A Tale of Two Trends," Journal of Criminal Law and Criminology, (June 1999); Eli B. Silverman, "Revolutionizing the Police: Fighting Crime in New York City," Security Journal 9, (April 1997): 101-104; Judith Greene, "Zero Tolerance: A Case Study of Police Policies and Practices in New York City," Crime and Delinquency 45, no. 2, (April 1999): 171-187.

The discussion of police reform in this thesis focuses on the demilitarization of internal security forces following war transitions to democracy. The internal conflicts of El Salvador and South Africa were the reform "triggering" events, which focused attention on the militarized nature of the police forces. Therefore, this thesis focuses on the three dimensions of demilitarization in the reform of internal security forces: the establishment of institutional boundaries between the military and civilian police forces, the professionalization of civilian police forces, and the establishment of meaningful mechanisms of accountability. These dimensions are chosen as a counter against the three most prominent characteristics of police militarization under authoritarian rule. They are also chosen for their importance in establishing civilianized police forces that are compatible with democracy.[18]

1.   Establishment of Institutional Boundaries

Establishment of institutional boundaries between the military and the police necessarily entails the adoption of civilian control over the military and police forces and a redefinition of the roles and missions of each. In many cases of major police reform efforts, such as in El Salvador, the military was barred from participating in internal security roles by stipulation in the new constitution. The Defense Ministry was reorganized and headed by a civilian Defense Minister, although a high-ranking retired military officer was appointed. Additionally, the police were separated from the Defense Ministry into the Ministry of the Interior. In other cases, such as South Africa, where the military and police were already under separate Ministries, establishing institutional boundaries meant the naming of civilians to head those Ministries and the removal of active duty officers from those and other political posts.

Establishing institutional boundaries must also involve the removal of active duty military personnel from the police forces. In some authoritarian regimes, such as South Africa, active duty personnel regularly transferred to the police forces and vice versa. Under democratic rule, this poses problems as the training of military and police differ in

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[18] However, even in democracies, these characteristics have been found to be lacking. For example, the Brixton Disorders in the United Kingdom highlighted the need for better police training. The Los Angeles riots emphasized the lack of accountability and problems in leadership. These three characteristics, however, are the most salient in transitions to democracy coinciding with the end of internal conflict, where human rights violations need to be addressed and civil-military relations need to be improved.

tactics and use of force. Separation of personnel and training ensures civilianization of police forces, thus making human rights abuses less likely.

Finally, establishing institutional boundaries includes the reorganization of authoritarian hierarchical security structures, and a fundamental change in the tactics and methods used in basic policing. In many authoritarian regimes, the police held military rank, reported to military supervisors, and used military equipment, transportation, and weaponry to police the population. Authoritarian doctrine often entailed the use of force as a first resort, similar to military doctrine. Democratic policing should include demilitarization of police organizational structures and a "hierarchical inversion" of policing methods. The new methods should empower the police to act on criminal activity, while providing accountability for their actions.[19]

2.   Professionalization of Civilian Police

The importance of professionalizing the new police forces is paramount to making fundamental changes in the nature and culture of policing. This is especially true in transitions from authoritarianism; however, it is also an issue in established democracies. The numerous volumes of literature on effective policing practices and studies on the blunders of policing problems point to the revamping of police training curriculums to improve professional qualities.[20] Militarization of civilian police forces during the internal conflicts of authoritarian regimes led to policing trends stressing military doctrine, training, and methods. This militarization further emphasizes the importance of reversing these trends and providing training in proper investigative, arrest, patrolling, and reporting procedures.

In addition to new training programs, research has also concluded that recruiting methods should be redesigned to ensure that the composition of the police forces reflect the communities in which they serve. This is crucial where authoritarian regimes have

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[19] Dominique Wisler and Hanspeter Kriesi, "Public Order, Protest Cycles, and Poltical Process: Two Swiss Cities Compared," in Donatella Della Porta and Herbert Reiter (Editors), Policing Protest: The Control of Mass Demonstrations in Western Democracies (Minneapolis: University of Minnesota Press, 1998), 92.

[20] See Janet B.L. Chan, Changing Police Culture: Policing in a Multi cultural Society (Cambridge: Cambridge University Press, 1997), Chapter six and ten; Jean-Paul Brodeur, Comparisons in Policing: An International Perspective (Aldershot: Avebury, 1995), chapter two, three and eight; and Tor Tanke Holm and Espen Barth Eide (Editors), Peacebuilding and Police Reform (London: Frank Cass, 2000).

discriminated against large ethnic or racial groups. The new police forces need to adopt recruiting methods that encourage better ethnic and racial composition.[21]

3. Establishment of Mechanisms of Accountability

Why should there be civilian oversight and meaningful mechanisms of accountability of internal police forces? The answer is two-fold. First, the police should not be left to operate on their own as they have a history of human rights abuses and political interferences. There should be an independent office to check that they do not repeat the horrible patterns, practices and mistakes committed under the past authoritarian regime.

Second, by virtue of the very nature of their work, police are more vulnerable to abuse of human rights and as such should be monitored. The fact that they "have a legitimate right to use force, if necessary" warrants close scrutiny of their activities. The need for oversight is premised on the fact that the police are given powers that impact on the rights of citizens, and this in and of itself necessitates high levels of civilian oversight. This is especially true where police previously operated in a military environment where they were not held accountable.

The issue of both external and internal controls on the police has been addressed in few police reform efforts. The relative exception of such cases reflects the lack of detail in most post-conflict agreements with respect to public security. Internal controls are accountability mechanisms within the military and police institutions, such as Inspector General offices and other internal offices that monitor the performance and behavior of personnel. Cases of abuses and infractions are investigated in-house, as opposed to using an outside agency. The advantage is that disciplinary action can be implemented quickly and changes to training and doctrine are more readily accepted from within the organization.

Where internal controls are weak, external controls can pick up some of the slack. The media and human rights ombudsmen office are examples of external control mechanisms. These offices from outside the organization often instigate investigations of

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[21] Chan's book covers the many strategies for changing discriminatory culture in police forces. See especially chapter three.

abuse and corruption. International actors can also play a strong agenda-setting role and develop greater capacity to assist in the development of effective oversight and accountability mechanisms. This can be key in helping weak transitioning states use internationally provided resources in a manner that reduces waste, corruption, and criminality.

D. FACTORS AFFECTING THE IMPLEMENTATION OF POLICE REFORM

Recent studies have concluded that while regime transitions may facilitate police reforms, they are not sufficient. Policing is "a barometer of state-society relations," and the security apparatus is at the core of the state. Its embeddedness in the state means that regime changes often leave the security apparatus intact. Where regime transition from authoritarianism occurs in conjunction with transition from armed conflict, termed "war transition," as in Guatemala (1996) and Haiti (1994), major civilizing police reforms occur. Conversely, where democratization unfolds without the termination of conflict, such as in Ecuador (1984) and Brazil (1985), major police reforms rarely materialize.[22]

The argument further states that major police reforms do not occur in all cases of war transition. The way a conflict ends indicates whether police reform occurs. It has been found that police reform only occurs where states have lost armed conflict or negotiated an end to such conflicts. In cases where government forces have been victorious, military prerogatives remain high and inhibit the development of police reform measures.[23]

First, where regime transition occurs as a result of governmental defeat in civil war, the resultant police reform efforts reflect the interests of the victorious oppositional groups. Second, in transitions where an external army defeats and occupies a country, the nature and composition of the police forces reflects the bargaining between the external power and the newly installed government. The third type of war transition occurs where conflict ends in a negotiated settlement. This type of war transition corresponds to the transitions in El Salvador and South Africa. In these cases, the nature

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[22] This argument and a detailed explanation of "war transition" is presented in Charles T. Call's Ph.D. diss., Chapter one, especially 47-48.

[23] Call, 49.

of the post-conflict reflects the balance between the opposing parties.[24] Recent literature about negotiated transitions, however, do not discuss the different types of negotiation in these war transitions. Hence, this thesis researches two specific and very different cases of negotiated war transitions to determine the effect of the differences on the reforms implemented.

1. Roles and Influence of Domestic Actors

This thesis argues that successful police reform demands the support or acquiescence of a number of domestic actors, namely the military, the police, and the political leadership. There are two major assertions that highlight the roles and influence of these actors. First, the legacy of the authoritarian relationship between the police and the military affects the level of military opposition to police reform efforts. When military forces have had a history of commanding and directing the police, such as in El Salvador, demilitarizing reforms will likely meet with military resistance. Military forces accustomed to power generally resist the loss of internal security powers and commanding powers over police. Losing control of internal security functions often entails decreased levels of funding, another unpopular byproduct of demilitarizing reforms. On the other hand, in cases where the police and the military have been organizationally separate, as in South Africa, military resistance is likely to be less because the military does not feel that it is losing a major portion of its organization.

Second, the degree and nature of internal security reforms will depend on the interests and balance of power of the key actors affected by the reform. In El Salvador, where the ARENA government was not discredited, the government and military enjoyed the support of the majority of the population. The FMLN, being at a disadvantage, felt that the negotiations period with the United Nations providing mediation was the only time where they would have their demands met. The FMLN pushed for a "shock treatment" change to the internal security forces in exchange for their demobilization and the details were stipulated in the peace accords. Although the FMLN "won" the accords because of the involvement of the UN, they "lost" the implementation because of the reluctance of the rightist government closely allied with the military to see the accords

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[24] For a more detailed discussion of war transitions and its effect on reform see Call, Introduction and Chapter One.

through. In South Africa, by contrast, the National Party government was discredited. The black oppositional groups enjoyed the majority of support from the population. South Africa's police reform reflected the confident gradualism of the ANC, as police reform remained on the agenda in the years following the transition.

2. Challenges to Consolidation of Reform

The challenges that war transitioning countries face when reforming their internal security apparatuses are related to the post-conflict conditions in their societies. Post-conflict societies share characteristics that can block or inhibit reform consolidation, such as high levels of violence and crime. Similar challenges of post-conflict societies contributed to similar outcomes in the two cases – middle of the road reforms. The demobilization of combatants and the influx of powerful weapons into society contribute to a transitional security vacuum, which has the effect of creating crime surges. Related to the crime problem is the development of parallel police units that can undermine the legitimacy of the new police force and inhibit their development. Another challenge is the timely development and deployment of oversight units to instill an expectation of accountability within the new police forces. Finally, the challenge of implementing simultaneous judicial reform is a difficult issue. The legacies of past corrupt judicial practices in authoritarian regimes can undermine the successes of police reform and damage efforts at instilling trust among citizens.

3. Role of International Actors in Police Reform

This thesis also argues that negotiated war transitions provide an opening for international actors to affect major police reforms. Although international actors have the opportunity to affect the extent of police reform called for in peace treaties, the actual implementation of reform is limited by the level of domestic support for reform and the tendency of the international community not to sustain commitment to reform over time. If domestic support for reform is lacking, the international community will find it difficult to be an influencing factor on reform implementation. If domestic support is strong, the international community can provide more influence on the implementation and consolidation of reform efforts. The transitioning country will be more open to international ideas and reform suggestions. In turn, the international actors will be more confident that their efforts will not be wasted. The additional challenge that international

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actors face is the difficulty of sustaining their commitment to implementation and consolidation over time. Numerous scholars have documented the long arduous road to internal security reform faced by post-conflict societies.[25] In most cases, the amount of time needed is longer than was originally planned. International actors will be hesitant about "wasting" their resources and contributing to reform measures that will not likely be consolidated. International actors are challenged to provide continued assistance throughout the crucial phases until consolidation is achieved.

E.   CASE SELECTION

This thesis studies two countries whose democratization efforts in the early 1990s included changes to their internal security apparatuses. Comparing the very different regimes of El Salvador and South Africa allows identification of common developments in internal security apparatuses that can be attributed to authoritarian rule. While both countries differ considerably in geographic size, culture, location, population, and economic and military strength, they share common security concerns. Under authoritarian rule, their primary security concerns were not military threats from other states, but rather internal threats due to economic, political, and social weakness. Moreover, Salvadoran and South African authoritarian regimes both used the police and military, as additional constabulary, to suppress large portions of the civilian population. Civilian police forces became highly politicized and militarized, incapable of controlling crime, lacking accountability and oversight, and exhibiting total disregard for human rights.

This thesis compares El Salvador and South Africa, two cases of *negotiated* war transitions. Although both countries faced similar militarization of internal security forces, South Africa seemed in a much better position to face challenges of consolidation. First, South Africa's military did not pose any opposition to police reform because the military and police had a long history of being organizationally separated. In contrast, El Salvador's police had a history of being controlled and directed by the military and they fell organizationally under the Defense Ministry. Second, in South Africa, the opposition group (ANC) rather than the rightist government won the foundational elections.

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[25] Stanley and Loosle, Stanley and Call, Johnstone, McCormick, Malan, and Shaw, cited throughout this thesis have all addressed the issue of the long period of time needed to bring about reform.

Increased domestic support for internal security reform is more likely as the previous rightist government is discredited. Conversely, in El Salvador, the rightist ARENA government won the foundational elections indicating that it would more likely lead to lack of domestic support. The continuance of power would likely mean that the government would prefer the continuance of status quo to far-reaching reform.

Finally, the international community was available to aid in the implementation and consolidation of reform in both countries. However, because domestic support was likely to be greater in South Africa, the international community's ability to influence the implementation of reform would also be greater. Yet, the outcome of reform efforts in both countries was surprisingly similar. This can best be explained by the overwhelming obstacles to the consolidation of police reform posed by the conditions of post-conflict societies.

F.   THESIS STRUCTURE

This thesis proceeds in the following fashion. Chapter two analyzes the authoritarian regimes of El Salvador and South Africa and describes in detail the structure of their security apparatuses prior to regime transition. The purpose is to emphasize how El Salvador and South Africa's authoritarian past led to the militarization of their internal security forces. Additionally, international actors reinforced this trend and Cold War ideology justified increased use of military forces and tactics to keep internal order.

Chapter three discusses the transition to democracy and the nature of the internal security reforms carried out in each country. The end of internal conflict and the negotiated nature of democratic transition allowed major police reform efforts to emerge in El Salvador and South Africa. However, the legacy of authoritarian rule and the balance of power of actors during the negotiations and transition affected the shape and nature of the reform process.

The fourth and final chapter outlines the challenges affecting the consolidation of reform efforts in each country and offers recommendations for future internal security reform efforts. Challenges affecting the consolidation of internal security reform in war transitioning countries are related to the post-conflict conditions that exist within those

societies. Post-conflict societies share features like high levels of violence and crime, which make internal security reforms both more urgent and more difficult to control. Lack of infrastructure to deal with these issues and the magnitude of reform measures needed also present challenges. Chapter four also describes the roles and challenges of international actors in implementation and consolidation of reform measures. The thesis concludes with recommendations for future internal security reform processes.

II.   THE LEGACY OF AUTHORITARIAN RULE

The problems and challenges facing police reform in El Salvador and South Africa today have their origins in each country's authoritarian past. The purpose of this chapter is three-fold. First, this chapter outlines the history of security policies in each country emphasizing the increased level of militarization that arose during authoritarian rule. Militarization took the form of three main security dimensions or characteristics: a blurring of the institutional boundaries between the military and the police, a decrease in the level of professionalism of the police and military forces, and a lack of meaningful accountability mechanisms concerning the conduct of civilian police forces.   The militarization of internal security structures under authoritarian rule put police reform on the agenda during transition to democracy.

The second purpose is to highlight the impact of international actors and Cold War ideology on the militarization of internal security forces in the two countries. International actors reinforced the militarization of internal security forces in the internal conflicts of each country by siding with the rightist governments, providing them with military and financial support, and encouraging the police to adopt counterinsurgency strategy and methods. Cold War ideology justified the increased use of military tactics, and weapons by the police to control each country's internal conflict.

Finally, this chapter highlights important differences between the two cases that would have significant implications for reform efforts. Although the militarization of police forces occurred in both countries, the blurring of institutional boundaries between the police and the military was greater in El Salvador than in South Africa. As a result, the military was less opposed to police reform in South Africa than in El Salvador. In fact, police reform efforts began even prior to the transition to democracy in South Africa.

A.   EL SALVADOR'S MILITARY RULE

El Salvador's legacy of military rule dates back to the nineteenth century, the structure of which has passed through various phases since Central America gained their

independence in 1821. Before the 1880's internal security was managed by military forces loyal to the *caudillos* rather than by any organized state police force. Between the 1880's and 1932, public security forces (police) emerged largely in response to socio-economic changes created by Liberal reformers and to specific interests of economic elites. However, it was during the sultanistic authoritarian[26] regime of General Maximiliano Hernández Martínez, from 1932 to 1944 that civilian police forces became more politically oriented than at any other time in the history of El Salvador. The turbulent period from 1944-1948 saw police forces increasingly subordinated to the armed forces as steps were taken to insulate them from partisan use and influence. By the end of the 1960's, U.S. security assistance consolidated the militarized nature of Salvadoran military and police forces, which continued throughout the quasi-civilian and counterinsurgent regimes of 1979-1991.[27]

In general, Salvadoran police and military forces have been highly militarized and politicized, reflecting the political regimes under which they existed. Three overall militaristic characteristics developed, which account for the coercive and repressive structure of El Salvador's security forces. First, the institutional boundaries between the internal security forces were indistinct, as the armed forces increasingly exercised more control over internal security forces. Second, as the police forces were subsumed under the military, the level of professionalism of the police went down. Civilian police force doctrine became more concerned with military tactics, maximum use of force, and counterinsurgency rather than with the more traditional police role of crime investigation and keeping domestic tranquility. Third, as the institutional boundaries between the internal security forces became indistinct and police forces deprofessionalized, accountability and oversight mechanisms were nonexistent and, in fact, had never existed. There was no process to keep either the political authorities or the internal security forces accountable to the citizens they were supposed to serve.

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[26] This classification is discussed in chapter 3 of Linz and Stepan, <u>Problems of Democratic Transition and Consolidation</u>.

[27] Call, 67.

Additionally, international actors and Cold War ideology influenced this militarization of internal security forces. Hegemonic and ideological concerns helped shape the structure, nature, and doctrine of El Salvador's coercive security apparatuses.

1. The Origins of Internal Security Forces

During the nineteenth century, as was the case in the rest of Central America, the force of arms was instrumental in achieving and holding public office. *Caudillos* and their armies, organized around liberal and conservative ideologies, and battled for control of the government from independence in 1821 through the 1880s. "Police legislation" and institutions in the early post-colonial period and throughout the remainder of the nineteenth century dealt primarily with the control of rural Indian labor.[28]

The most important factor shaping the policing patterns during the nineteenth century was the interests of the ladino landowning elite. In the late nineteenth and early twentieth century, important shifts in the socio-economic structure greatly affected the state to society relationship and the subsequent structure of internal security forces. During the 1880s, legislation was introduced, which abolished the traditional collective ownership of land by Indian communities, *ejidos* and *tierras communales*. El Salvador's Indian peasants were dispossessed of their self-sufficient land and homes. As a result, land became concentrated into the hands of the rising and increasingly powerful coffee aristocracy, while the Indian and mestizo populations were reduced to supplying the seasonal labor for the growing coffee plantations. Strong resistance to these laws gave way to violent uprisings. In some communities, judges were taken prisoner and maimed.[29]

To enforce land transfers and contain resistance, the army was initially used. However, by the late 1880s a rural police, *Policía Montada*, or "Mounted Police," was founded through national legislation and financed by a tax on coffee exports. The rural police served to increase state vigilance aimed at preventing peasants from any means of subsistence except wage labor on plantations. At the same time, the liberal reforms of the 1880s called for a revamping of the San Salvador urban police force, renamed "*Policía*

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[28] Philip J. Williams and Knut Walter, <u>Militarization and Demilitarization: In El Salvador's Transition to Democracy</u> (Pittsburgh, PA: University of Pittsburgh Press, 1997), 13-14.

[29] McClintock, 94.

Reformada." Other main coffee-growing cities were also establishing similar forces. By 1905, efforts were made to administratively link the urban forces of all the cities and form what was eventually known as the *Policía Nacional*. This national public police force answered to the civilian elites. Officially, the police forces responded to governors and mayors under the Ministry of Government. However, the internal organization and rankings were military in nature, and during much of this period, the urban police of the capital city, San Salvador, responded to the War Ministry.[30]

Under President Dr. Manuel Enrique Araujo, the most feared and respected security force was established in 1912, *La Guardia Nacional*, which was modeled roughly on the Spanish Civil Guard. Araujo placed the National Guard under the Ministry of Government and Development, however, the organization, personnel, duties, discipline, and material were under the authority of the Ministry of War and Navy. In 1914, after Araujo's assassination, the Ministry of War and Navy brought the Guard formally under the Army. The Guard's main duty had always been to enforce political control on the rural population through forcible displacement. However, the emergence of efforts to organize trade unions in the early twentieth century presented a new challenge to the economic elite, and the Guard duties were expanded to prevent such organization.[31]

Regional dynamics of the early twentieth century also played a role in the formation of security policy in El Salvador and reflected the hegemonic concerns of the United States. The politics surrounding the construction of the Panama Canal in the 1920s illustrate U.S. intolerance of political instability in the Caribbean and Central America. This intolerance is revealed in the words of then U.S. Secretary of State Elihu Root, "The inevitable effect of our building the Canal must be to require us to police the surrounding premises."[32] Hegemonic influence reached beyond the countries directly occupied by the U.S. and in 1923, under intense pressure from the U.S., the five Central American republics signed the Central American Treaty of Peace and Amity. This treaty committed each state to form internal security forces that were efficient, centralized,

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[30] Call, 71.

[31] McClintock, 97.

[32] As quoted in Call, 75.

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military-trained, and equipped with sufficient power to deter civil wars and guarantee the stability of pro-U.S. regimes.[33]

2. Politicization of Police Forces – 1932 to 1948

The development of an elaborate security system in El Salvador, the explosive escalation of state terror, and the violent civil war that lasted twelve years (1979-1991) would be inexplicable without reference to the events that rocked the tiny nation in 1932. The year 1932 stands out for two major reasons. First, the occurrence of *la matanza*, the most famous massacre in the country's history, established a relationship of fear and repression between the rural population and the state. Second, 1932 marks the emergence of a new political regime and a change in the nature of the state, both of which changed the public security system.

a. *La Matanza*

In 1931, after a number of presidential administrations (known as the Meléndez-Quiñonez period), President Arturo Araujo was elected on a populist reform platform. His critics, however, accused Araujo of being a communist. Additionally, he confronted a crisis in export earnings as a result of the Great Depression and increasing levels of labor organization. Dissatisfaction grew and within ten months Araujo was replaced in a bloodless coup by his Vice President, General Maximiliano Hernández Martínez. Prepared for the impending communist peasant revolt, Martínez postponed municipal elections twice, prompting strikes in the Western parts of the country, which grew into widespread violence on the night of January 22, 1932.[34] Several thousand indigenous and mestizo peasants attacked towns, municipal offices, homes, and military barracks. Armed mostly with machetes and a number of rifles, the insurgents took over several western towns, overwhelmed isolated police posts, and engaged in looting, arson, rape, and murder. Overall, the rebels killed about one hundred people, including thirty-five civilians and local police, five customs police, ten National Police, ten National Guardsmen, and between twenty and forty soldiers.[35]

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[33] Call, 75.

[34] McClintock, 108.

[35] William Stanley, The Protection Racket State: Elite Politics, Military Extortion, and Civil War in El Salvador (Philadelphia: Temple University Press, 1996), 41.

The government response was swift and brutal. National Guard and army forces descended upon the communist insurgents and systematically defeated them in just three days. However, in the weeks that followed, the Martínez regime eliminated anyone in the western part of the country whom they suspected looked like an Indian, dressed like a peasant, or carried a machete. Within a few weeks an estimated ten thousand peasants were massacred. As a result, 1932 is generally considered as the year that El Salvador ceased to have an Indian population. Indians were moved to discard their traditional native dress and outer signs of Indian identification, even ceasing to teach their children the native language. Even though the massacre did not wholly exterminate the Indian people, virtually no Indian culture or identity remained.[36]

b. *Police-Military Relationship*

In the aftermath of *la matanza*, Martínez gradually and increasingly relied upon the internal security forces for political support rather than the army. Even before 1932, the National Guard suggested to peasants how they should vote in elections. However, under Martínez, the Guard more openly promoted the interests of his party, the Pro-Patria party. Martínez built up the personnel and the budget of the National Police and the National Guard. He placed General Tomás Calderón, the armed forces top ranking general, as the Minister of Government and Agriculture, and so in command of internal security. Resentment grew among military leaders because General Calderón's rank gave internal security forces favor over military command. Eventually, military resentment led to a coup attempt in April 1944, which was successfully thwarted by the National Police and Guard, who were loyal to Martínez. However, continued military outrage and public criticism finally obliged Martínez to resign.[37]

By the end of the Martínez regime, most of the elements of the public security system were in place, which persisted until 1991. The three principal security forces, the National Police, the National Guard, and the Treasury Police, in addition to the Customs Police and the Immigration Police, shared internal security responsibilities with the army. What changed over the next four decades were the roles and missions of

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[36] McClintock, 115.

[37] McClintock, 130.

these forces and their degree of militarization, which steadily increased through the 1980s.[38]

3. Military Rule - "Balance" Between Reform and Repression – 1948 to 1979

From 1948 to 1979, a number of military coups institutionalized the pattern of military authoritarian rule. General Salvador Castaneda Castro in January 1945 won an election typical of those that prevailed in the 1950s and 1960s where no oppositional parties had the opportunity to put forth candidates or compete.[39] Castaneda sought to reduce the power and politicization of the National Police, and shifted it from the Ministry of Government to a new Public Security Branch of the Ministry of War. The following year, he switched the National Guard to the National Defense Branch of the War Ministry. Castaneda's goal was to place the security forces under the firm control of the military in order to undercut the possibility of playing the police against the army, as Martínez had done with such success.[40]

The legacy of the military governments of 1948 to 1979 was the continued occupancy of top political posts by the armed forces. The military initially sought to redeem their image, to end its involvement in politics, and to implement social reforms.[41] They claimed to be uniquely positioned to arbitrate between landed oligarchs and the vast poor majority of the population. The military thought itself able to act on behalf of the national interest and not in the interests of any particular class. In fact, however, military governments were toppled when either they used excessive force and brutality in repressing demonstrations, or when they failed to suppress them and elites feared impending social instability. As a result, military presidents of the 1950s, 1960s and 1970s maintained an uncomfortable compromise between reform and repression, and engaged in what they considered a balancing act.[42]

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[38] Call, 80.

[39] Stanley, 66.

[40] Call, 82.

[41] McClintock, 132-133.

[42] Stanley, 69-71.

4. Anti-Communism and U.S. Hegemonic Influence

Following the revolutionary victory in Cuba in 1959, anti-communism became a more central feature of doctrine and operations in El Salvador and the rest of Latin America. Whereas European models had predominantly shaped the organization of Salvadoran security forces and their relationship to the state prior to 1960, after this time U.S. security models and assistance policies were more pronounced.

Under President John F. Kennedy, the U.S. embarked on a hemispheric effort to bolster counterinsurgency capabilities of internal security forces as a component of the U.S. "containment" policy. This entailed drawing military forces increasingly into internal intelligence gathering operations (a reversal of past U.S. military teachings), enhancing anti-terror and intelligence capabilities, relying on semi-autonomous paramilitary organizations, and orienting the police forces toward internal political control and repression of armed insurgents. An essential element of counterinsurgency training was the concept of using guerrilla tactics against perceived communist political groups. These tactics included secrecy, assassination, psychological operations, and attacks on opposition support populations.[43] This assistance was accompanied by extensive economic development aid under the umbrella of the Alliance for Progress. During this period, communist political opposition became better organized and opposition groups developed and trained their own armed units.[44] However, the counterinsurgent efforts far exceeded the actual threat, a lingering shadow of *la matanza*.

The 1960s and 1970s saw U.S. military assistance in the form of a continuous flow of temporary duty (TDY) military "advisors" and mobile training teams (MTTs). This assistance led to structural changes in the intelligence agencies of both the military and the police and stepped up military capabilities and cooperation.[45] In 1961, the President, Colonel Julio A. Rivera chose General José A. Medrano to assemble a small intelligence unit consisting of only 15 elite army officers, the *Servicio de Seguridad* or Security Service, which reported directly to the President and the General Staff. This group became the coordinating center of the intelligence system network, linking all the

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[43] McClintock, 210-213.

[44] Call, 84.

[45] Stanley, 80

political intelligence sections of El Salvador including those of the National Police and the National Guard. The Security Service, later reorganized and renamed *Agencia Nacional de Seguridad de El Salvador* (ANSESAL), drew heavily on intelligence collected from the service agencies. However, full-range access was reserved only for the Security Service members and the President.[46]

The Security Service's main achievement under Medrano was the building of ORDEN (*Organización Democrática Nacionalista*), a nation-wide paramilitary network of informants representing the most significant Salvadoran private policing effort of the twentieth century.[47] ORDEN recruited mainly from the military reserves where skills and political indoctrination could be closely monitored. Careful selection of recruits was accomplished in conjunction with army commanders and army officers commanding the National Guard units.[48]

Although highly trained in military tactics, the police forces were not focused on or trained in the traditional work of preventing and resolving cases of common crime. Rather, all security training, which took place at the Military Academy, was military in nature and focused on military counterinsurgency tactics. Classes were integrated with equal numbers of military and police students undergoing identical training.[49] This resulted in increased militarization of police forces and a decrease in the ability of civilian police to investigate common crime and carry out normal policing duties.

5.   Cold War Legitimation and the International Community

The 1970s saw the emergence of leftist guerrilla organizations, which struck important blows to the state, although never quite reaching the point of being able to topple it. In response to the increase in opposition violence, President Romero announced the Law of Defense and Guarantee of Public Order on 25 November 1977. This new measure provided the security forces with arbitrary arrest and detention powers against demonstrators, labor activists, and others suspected of "subversive speech." The law provided legal cover under which the security forces could be increasingly arbitrary.

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[46] McClintock, 204-205, 218.

[47] Call, 85.

[48] McClintock, 205.

[49] McClintock, 210.

Rather than focusing on the guerrilla organizations, the security forces arrested, detained, and disappeared an increasingly expansive group of labor, student, neighborhood, Church, and Christian Democratic activists, with seeming disregard as to whether they could be considered a bonafide threat to the state. By 1978 killings by government security forces and death squads averaged 57 per month.[50]

U.S. further legitimized the actions of the Salvadoran security forces. The mild reaction of Ambassador Frank Devine to the 1977 Public Order law illustrates this point. He announced to the American Chamber of Commerce, "Any government has the full right and obligation to use all legal means at its disposal to combat terrorism."[51] The majority of "subversive" activity, however, was in the form of demonstrations and strikes. It is more than likely that President Romero read Devine's statement as a sign that the U.S. would now tolerate repressive measures to quell governmental opposition.[52]

During the course of the 1980s, the Salvadoran military and security forces, received over $600 million in U.S. military assistance. The U.S. often failed to get the Salvadoran government and armed forces to go along with its wishes in counterinsurgency and (later) in its peace negotiations; however, FMLN leaders believe that the United States' aid was decisive in averting guerrilla victory in the early 1980s, and in persuading the Christiani government to agree to peace later in 1991. Thus, international actors directly affected the nature and outcome of the internal conflict in El Salvador.[53]

B.   SOUTH AFRICA'S COLONIAL RULE

Since the Union of South Africa was formed in 1910, the South African Police (SAP) had the primary task of policing race relations, like any other colonial police force. At first, the governmental approach towards the goal of racial domination was hit-or-miss, or ad hoc. However, by the 1940s, South Africa's booming industries suffered from the casual approach to racial control in its British influenced paternalistic

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[50] Stanley, 114

[51] As quoted in Stanley, 115.

[52] Stanley, 115.

[53] Call, 94.

"democracy." It became necessary for the insecure white minority population to systematically establish instruments of political and economic control over the black majority. The white National Party (NP) politicians played up the threat of a militant black proletariat during their campaign in the late 1940s. This set the stage for apartheid, gave rise to worldwide abhorrence, and eventually reduced South Africa to the status of a pariah.[54]

The "Total Strategy" period from 1976 to 1992 is the most decisive era of apartheid, which explains the shaping of internal security forces in South Africa. This is the period where internal security forces were the most brutal and opposition was at its peak. The SAP's role in subjugating the majority of the population led to an emphasis on militarism and deprofessionalization in normal policing methods and techniques within the force. Moreover, the violence of South African policing was facilitated and enabled at all legal, organizational, and political levels. This created a warped "accountability" system, which permitted rather than prevented violence and motivated police officers to do "whatever it takes" to sustain apartheid. Furthermore, international actors, in Cold War competing tactics also helped sustain the conflict in South Africa.

1.   Politicization of the Security Forces – 1948-1959

The 1948 victory of the National Party began South Africa's infamous "apartheid" era. Apartheid needs little introduction. Its simple function was to limit black South Africans' access to their country's resources while at the same ensuring their labor was available to promote the interests of white South Africans. Apartheid was the centerpiece of a society that thrived on the pervasive reality of race-based power, privilege, and social superiority. It was an elaborate theoretical rationalization for the racial domination that had prevailed in South Africa virtually since the first European settlers arrived at the Cape of Good Hope in 1652. Racial policing existed well before apartheid; however, it was during apartheid that policing became especially brutal.

Apartheid infiltrated into every conceivable sphere of South African society, including interpersonal relations, social and economic organization, residential patterns,

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[54] Anthony Parsons, From Cold War to Hot Peace: UN interventions 1947-1995 (London: Penguin Books, 1997), 94.

and the political organization of the state. The decade of the 1950s was marked by the drafting of legislation designed to control the physical movement and social life of black South Africans including: the Population Registration Act (1950), which classified individuals by race; the Group Areas Act (1950), which delineated racially zoned living areas; the Immorality Act (1951), which made marriage and sexual relations between races illegal; and the Bantu Education Act (1953), which defined African education in apartheid principles.[55]

As enforcers of these discriminatory laws, the police were the key agents of state policy, as well as the most immediate symbol of black oppression. Three features distinguished policing under the first phase of apartheid: the extension of police powers, increasing brutality, and an accompanying withdrawal of legal and political constraint on police conduct. A new Police Act was passed in 1958 giving the police responsibility for the "preservation of internal safety in the Union," a power they always had in practice but had never been legally defined. The Criminal Procedure and Evidence Amendment Act No 29 in 1955 gave the police the right to search and arrest without a warrant. The SAP was also given extensive new powers by the Criminal Procedure Act No 56 of the same year, which allowed them to detain suspects for up to 180 days without court regulation.[56]

Policing ordinary crime during this era was not a priority. Crime was dealt with by focusing on political unrest and the administrative regulations, which defined the boundaries between races. One of the leading criminologists, J. van Heerden, Chief of Bantu Affairs Commissioner in the 1950s, said that the source of crime lay in the social mixing in residential areas. He believed that enforcing segregation would solve crime and the police could prevent crime by enforcing apartheid's race laws.[57] The police became objects of fear when enforcing race laws that did not deal with ordinary crime. Furthermore, policing apartheid in the 1950s did not initially demand sizable numbers of police or professional skills in dealing with the public. Instead, what was important was

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[55] James Barber, <u>South Africa in the Twentieth Century: In Search of a Nation State</u> (Oxford: Blackwell Publishers, 1999), 141.

[56] John D. Brewer, <u>Black and Blue: Policing in South Africa</u> (Oxford: Clarendon Press, 1994), 207.

[57] Brewer, 212.

brute force, an organizational culture and managerial philosophy that encouraged this, and an arsenal of equipment, which made the police into a killing machine.

2. Militarization and Deprofessionalization – 1960-1975

In 1960, South Africa abandoned membership from the British Commonwealth because of criticism over apartheid policies. South Africa voted to become a Republic. Also in 1960, following the debacle in Sharpeville, black political opposition became militarized, went underground, and went abroad. This forced the police to focus on the external rather than the internal threat, to develop counter-insurgency skills, and to rapidly expand its manpower and resources. This era was also marked by the development of the Bantustans, self-governing homelands, and the ensuing industrial decentralization and population removals. This phase of apartheid affected policing in three ways. Policing race relations was expanded to include intervening and enforcing the removal of Africans to new homelands. Second, as control laws were tightened as part of Bantustanization, the police enforced the pass laws with renewed vigor, resulting in a further deterioration in their relation with urban Africans. Finally, policing was decentralized to accommodate for the emergence of homeland police forces.[58]

As the apartheid government strengthened, so did black resistance. Freedom fighters continued their campaign against apartheid laws, despite continued repression. On 21 March 1960, in Sharpeville, a peaceful demonstration against pass laws ended when police opened fire on the crowd, killing 69 Africans and wounding more than 200. Sharpeville was followed by violent encounters between the police and protesters at Langa and elsewhere in the country. The government declared a state of emergency on 30 March 1960, deployed troops and police into black townships, exiled the African National congress (ANC) and the Pan-African Congress (PAC) black resistance groups, and detained black political supporters by the thousands. One such detainee was Nelson Mandela, leader of the ANC, who continued his resistance efforts from his prison cell for the duration of his imprisonment.[59] These events established a dynamic relationship between domestic confrontation resulting from lack of regime legitimacy and

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[58] Brewer, 223, 225.

[59] Annette Seegers, <u>The Military in the Making of Modern South Africa</u> (New York: Tauris Academic Studies, 1996), 119.

international reaction, which was to remain a feature of the South African security environment for the next 30 years.

The Sharpeville massacre, widely publicized by the media focused international attention on the apartheid system. Pretoria found itself diplomatically isolated and faced with threats to its security and economic growth. International capital, which had played a significant part in South African economic development since the nineteenth century, began to disappear. The United Nations, its ranks enlarged by new African and Asian states, sent Pretoria a clear message when the General Assembly, by a vote of ninety-six to one, passed a resolution that requested all states "to consider taking separate and collective action…to bring about the abandonment of apartheid policies."[60]

Because of the events in 1960, police training underwent significant militarization. Sharpeville proved to apartheid authorities that equipment and tactics for public-order policing were inadequate. The SAP began riot-control training that same year at the Police College. Riot training became part of normal training for recruits, and the period of training was extended from six months to a year to accommodate the changes in curriculum. Training was militarized, with emphasis on the use of force as a first resort and within a few years "the SAP was congratulating itself that its basic training for policemen was considered by military experts to be one of the toughest military oriented training courses in the world."[61] Firearms training also underwent militarization and now included qualification with machine-guns. To accompany the SAP's new training, new equipment was purchased in addition to firearms. By 1967, the SAP's stock of vehicles included 129 riot lorries, 151 riot trucks, 417 riot land rovers, 80 Saracen armored vehicles, two airplanes and two helicopters.[62]

To reinforce its militarization, the SAP underwent significant reorganization and integration of state security forces. The 1969 Public Service Amendment Act established the Bureau of State Security (BOSS) to coordinate military intelligence and the SAP's intelligence, known as the Special Branch (SB). BOSS was accorded various powers

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[60] Robert M. Price, The Apartheid State in Crisis: Political Transformation in South Africa 1975-1990 (New York: Oxford University Press, 1991), 21.

[61] Brewer, 249.

[62] Annual Report of the Commissioner of the SAP (1966/7): 3, as stated in Brewer, 250.

including the prosecution of anyone in possession of documents or information relating to the police and was thought contrary to the interests of the country. Additionally, the titles and ranks of SAP officers were changed to reflect those of the army, such as major, captain, warrant officers, etc. The Defence Amendment Act of 1961 provided for the appointment of an interdepartmental committee to coordinate internal security work between the South African Defence Force (SADF) and the SAP. By 1973, the SADF's "Departmental Strategic Plan" required the SADF to assist the SAP at all times, both in counterinsurgency and preserving internal order. Furthermore, in 1975, servicemen were regularly transferred from the SADF to the SAP to offset the manpower shortage in the police force.[63]

By 1970, anti-terrorism training was the most popular in-service course offered at the Police College. That year, 2,300 officers attended the course that year. Training lasted four weeks and included: familiarization with "bush" terrain; the use of special weaponry, such as mortars, anti-personnel mines, and hand-grenades; skills in self-defense; and survival.[64] The emphasis of this training demonstrates the SAP's reevaluation of policing priorities. The threat was external and military. The danger that it could become internal required considerable focus on suppression of political activity inside South Africa and the tight control of the country's black citizenry by means of administrative regulations.

In terms of both police resources and effort, ordinary crime was relatively ignored. When it was dealt with, the police used paramilitary methods as if ordinary crime was considered a form of guerrilla insurgency. The police thought themselves effective at ordinary crime fighting as rank-and-file policeman boasted of their relentlessly hunting down murderers, burglars, and rapists. Crime was endemic to South Africa's social condition, and the SAP was helpless when dealing with crime as a pure policing problem.[65]

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[63] Kenneth W. Grundy, Soldiers Without Politics: Blacks in the South African Armed Forces (Berkeley: University of California Press, 1983), 137.

[64] Brewer, 254.

[65] Brewer, 266-267.

3. "Total Strategy" – 1976-1992

On 16 June 1976, secondary school students in Soweto, a black township on the edge of Johannesburg, peacefully marched in protest to the government's insistence on the use of Afrikaans as a medium of instruction. By the time the young students reached Orlando West High School, their numbers had grown to about 14,000. Police forces clashed with the school children, opening fire into the crowd. Soweto's children were treated as if they were insurgents. Rioting ensued and spread like wildfire. Student uprisings spread nationwide. Hundreds of thousands of workers then went on strike in solidarity with the students, thousands of whom fled the country and joined the liberation forces. By November 1976, nearly one million people in over two hundred communities had directly protested against apartheid policies in a way that had not been seen before. Suddenly, the police had to switch from the external guerrilla threat to an internal threat. But, they continued to perceive crowds of residents in the same manner they perceived guerrillas. By the end of 1977, the government was responsible for more than 575 deaths and over 2,400 wounded.[66]

The aftermath of Soweto and the ensuing events revealed the weaknesses of policing under apartheid: the police were cruel and brutal in relying on a strategy of violence as a first resort, professionally undeveloped, understaffed in terms of regular manpower, administratively incompetent, and lacking in legitimacy. Additionally, although policemen were regularly brought up on charges before the courts for their alleged brutal behavior, they were given undue leniency and often absolved of complete wrongdoing even in the face of obvious cover-ups. Steve Biko's death offers a poignant example.

Biko, founder and leader of the Black Consciousness movement, was tortured to death in police custody on 12 September 1977. Immediately following Biko's death, the police denied that his death was the result of head injuries. When it became clear that the cause of Biko's death was suspicious, charges were brought against the police involved. In a five-minute inquest verdict, the magistrate accepted the police version and cleared

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[66] The United Nations and Apartheid: 1948-1994 (New York: Department of Public Information, United Nations, 1994), Doc 82, 339.

them of any responsibility or criticism. The verdict is all the more alarming for the following reasons: the police had admitted to keeping Biko naked in his cell in leg-irons and chained to a grill; the prison doctor admitted that Biko should have been sent to the hospital but the police initially refused; and when he was finally dispatched to the hospital, he was carried in the back of an open van for 1,200 kilometers without medical supplies or supervision. To further inhibit public criticism over Biko's death and the absolving of the police involved, the government banned nineteen organizations in October 1977, including the two most widely read African newspapers.[67]

International opposition to apartheid strengthened because of these events, and a mandatory UN arms embargo was imposed in November 1977, capital investment dwindled even further, and tens of thousands of young South Africans were bloodied in the struggle against apartheid. The atmosphere in government circles was one of crisis management. The government, acting on police and BOSS intelligence, blamed the violence on agitators and their communist ties. The belief that the country was besieged by communist enemies, known as "Total Onslaught," required a "Total War" response, both regionally and domestically. It was in this context that Prime Minister P.W. Botha brought the SADF to the center of the state decision making network and opened the way for the implementation of reforms and repression surrounding "Total Strategy."[68]

The reforms entailed changes to homeland policies, urbanization, trade unions and labor, regional development, and changes in the Constitution. The reforms were popularly referred to as a strategy "to win the hearts and minds." However, the state made it absolutely clear that reform could only proceed once law and order was restored. The SADF played a central role in the coordination and integration of Total Strategy and largely included the militarization of the entire state apparatus. This process involved the diversion of state resources from civilian to security functions, military conscription of white males, and increased military influence over the state, the media, and the economy. The proportion of state spending earmarked for defense and law and order rose sharply (with defense being given priority in funding increases) during the late 1970s and 1980s, rising as high as 28 percent of total state expenditure. Complex protectionist measures

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[67] Brewer, 273-274.

[68] Gavin Cawthra, Securing South Africa's Democracy (New York: St Martin's Press, 1997), 32-33.

were introduced as billions of rands were pumped into the arms industry and other strategically important industries. Approximately half of the defense budget was allocated to a Defence Special Account, which was used to purchase arms related materiel. The South African Armaments Corporation (Armscor) embarked on a program of rapid expansion and diversification in an effort to offset the effects of the mandatory UN arms embargo. By 1984, it had grown to be the third largest industrial enterprise in the country and claimed to be the world's tenth largest arms industry.[69]

The effect of militarism on white society and on policing was displayed noticeably through South Africa's conscription policies. From a white male population of about two and a half million, more than half a million were conscripted at any one time into active or reserve forces. Although most of Western Europe also had policies on conscription, South Africa's was peculiar in the following way. Conscripts could elect to serve their duty in the SAP or the SADF. Furthermore, to help with police manpower shortages, armed forces personnel could transfer from the SADF to the SAP. Nevertheless, fears that people were using the SAP as a means of skipping national service prompted the government to impose different service requirements for the SADF and SAP. Those who elected to do national service in the SAP rather than the SADF were required to serve double the normal period of time.[70]

Although the black liberation forces never really posed a serious military threat to the apartheid regime (in contrast to El Salvador's FMLN), the political effects of its revolutionary effort in the second half of the 1980s persuaded white South African leaders that they needed to make compromises with the liberation movement. Even though Total Strategy involved a regional belligerence towards its neighbors, centralization of strategic decision making and increased domestic military mobilization created a political opening that mass movements wasted little time in utilizing to their advantage. These factors led to the nation-wide uprising, which began in the Vaal Triangle in October 1984. The government, determined not to let the rebellion get out of

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[69] Cawthra, 36.

[70] Brewer, 276.

control, imposed a national State of Emergency, which was to continue until 1991. This was a turning point in Total Strategy.[71]

A renewed emphasis on counterinsurgency and counterrevolution came into effect. The counterrevolutionary strategy adopted during the State of Emergency was implemented through the National Security Management System (NSMS), becoming fully operative in 1986. The NSMS was a centralized and hierarchical organization of committees staffed by bureaucrats and security officials and was responsible for coordinating and implementing the Emergency. The State Security Council (SSC) was at the peak of the NSMS, and a national Joint Management Committee (JMC) coordinated 11 regional JMCs, 60 sub-JMCs corresponding to police divisions, and over 350 mini-JMCs at the municipal or local level. Each JMC consisted of police officers, military officers, intelligence officials, and civilian bureaucrats. The consequences of the State of Emergency were the increase in police powers and brutality, expansion of the state's policing capacity using the SADF, and that the security forces were drawn increasingly into a direct political role inside the state apparatus.[72]

The NSMS had four major objectives during the State of Emergency. First was the restoration of physical control over the townships, achieved by the deployment of overwhelming force, imposition of curfews and roadblocks, and the banning of gatherings. The second objective was the removal of revolutionary leaders and structures that support them. Third was a "counterorganizing" and reintroduction of compliant local leadership and new administrative structures. In this pursuit, rapid training of black police auxiliaries was undertaken, as was the encouragement of local vigilante organizations. Most important and yet most ineffective, the fourth counterrevolutionary initiative was the effort to deal with the grievances of the revolutionaries. This initiative proved a failure as economic sanctions, a shrinking economy, and increased military expenditure guaranteed inadequate funding to make it effective.[73]

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[71] Cawthra, 47-48.

[72] Brewer, 293-314.

[73] Cawthra, 50-51.

4. The Cold War – Competing Interests

U.S. relations with South Africa during this period reflected a conflicting mixture of ideological and practical concerns. Ideologically, South Africa's apartheid government was an embarrassment to the United States. Committed to racial equality at home, the United States had an interest in the creation of pro-Western, non-racial democracy in South Africa. Practically, Soviet involvement in African insurgency efforts was viewed as a threat to U.S. economic and security interests in the region. For the Soviets, apartheid represented a "golden opportunity" to further their own interests in Africa. The liberation movement of the ANC sought Soviet aid in their struggles against minority rule, not only in South Africa, but also in the neighboring countries of Angola and Mozambique. In order to offset Soviet influence in Africa, and to safeguard its other interests in the region (namely, strategic minerals and the security of the sea lines of communication around the Cape of Good Hope), the United States afforded varying degrees of accommodation and cooperation to South Africa well into the 1980s.[74] Military, nuclear, intelligence, trade, and investment links between the U.S. and South Africa continued throughout the Cold War, with the exception of the U.N. arms embargo of 1977.[75] Cold War ideology and competing international support justified and increased the use of military tactics and weapons by the South African Police.

C. LEGACY OF TWO AUTHORITARIAN PASTS

El Salvador and South Africa share many characteristics, which contributed to the abuse of human rights and repression of a large number of their civilian populations by the police and armed forces. In general, both Salvadoran and South African security forces became highly militarized and shared three main characteristics. First, the institutional boundaries between the internal security forces in both countries became unclear and indistinct. Military officers held supervisory and command roles within each countries' police forces. In El Salvador, the police were directly under the control of the

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[74] Edwin S. Cochran, "The Pivotal State: Post-Apartheid South Africa," Parameters (Winter 2000/2001): 90.

[75] Pauline H. Baker, "The United States and South Africa," in Richard N. Haas and Meghan L. O'Sullivan (Editors), Honey and Vinegar: Incentives, Sanctions, and Foreign Policy (Washington DC: Brookings Institution Press, 2000), 98.

military. In South Africa, the police and the military were under separate ministries, however, military officers held most of the supervisory positions, and the ability to transfer between the military and the police was built in to the conscription policies. Second, the internal security forces were deprofessionalized in the sense that they were inadequately equipped and ill-trained in the performance of ordinary police work. Although internal security forces were highly trained in the use of military weapons and tactics, they lacked training in routine police investigation and procedures. Additionally, the military weapons and vehicles were not designed for minimal use of force and routine patrol. Third, the internal security forces of El Salvador and South Africa lacked meaningful transparency and oversight mechanisms to keep them accountable to the communities they were supposed to serve. This was not even possible because there was no political accountability within these authoritarian regimes. Instead, both states relied on repression to keep control of the excluded portions of society. The internal security forces mirrored the state-society relationship.

International actors have contributed to the militarization of internal security forces in the two countries. The United States sided with the rightist governments and the Soviet Union supported the armed opposition encouraging the use of military tactics and weapons by the police to control each country's internal conflict. Cold War ideology justified the increased militarization of internal security forces.

The interesting difference between El Salvador and South Africa lies in the relationship between the military and the police forces. In El Salvador, the military subsumed the police forces under the Ministry of War in order to prevent the manipulation of the police by the political party in power, which had occurred under the Martínez government from 1932 to 1944. The result is that the military retained direct control of the police. In South Africa, this was not the case, as the military and the police have always been under separate ministries. Although boundaries between the military and police were blurred in a number of ways – personnel transfers between the military and police, military supervisory positions, militarized training and weapons – the police were not under the control of the military. As a result, there is reason to believe that South Africa will not face much opposition from the military in its police reform efforts. El Salvador's military, on the other hand, will likely feel threatened by police reform

measures that dissolve large portions of their organization, and reduce their influence over internal security.

The next chapter contains a detailed explanation of the transitions to democracy and the internal security reform measures of El Salvador and South Africa. The end of the Cold War saw an end to the competing support for the internal conflicts of each country and opened the door to democratization. The end of internal conflict in El Salvador and South Africa, and their transitions to democracy placed reform of their internal security apparatuses at the center of negotiations.

III. TRANSITION TO DEMOCRACY AND INTERNAL SECURITY REFORM

War transitions, where regime change occurs in conjunction with the termination of conflict, provide key opportunities for major reforms in internal security apparatuses. Most democratic transitions provide openings for reform since they are times of redefining power and the concepts of internal security. War transitions, in particular, have police reform at the center of the agenda, since internal security structures continue to play a key role in active conflict in the latter stages of the authoritarian regime. (In contrast to most other authoritarian regimes where police repression is heaviest in the period immediately following the seizure of power.)[76]

El Salvador and South Africa are examples of war transitions where conflict ends in *negotiated* settlement. Negotiated settlements provide increased opportunities for internal security reform because military prerogatives and contestation are reduced allowing demilitarizing reforms to occur.[77] In these cases, post-conflict reforms reflect the balance of interests between the opposing parties.[78] Neither side in El Salvador and South Africa achieved the political-military defeat of its enemy, which would have allowed the victor to implement its own overall political vision. Rather, each side was obliged to compromise and accept substantially less than their original demands.

Although negotiated war transitions provide opportunities for reform, the actual degree and nature of internal security reforms will depend on the balance of power of key actors affected by the reform. The foundational elections, taking place in 1994 in both countries help describe this balance of power. In El Salvador, the first round of voting in the presidential elections resulted in the ARENA party gaining 49%, the FMLN 25%, and the Christian Democratic Party (PDC) 16 % of the votes cast. Following a "run-off" contest on 24 April, Armando Calderón Sol, the ARENA candidate, was elected

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[76] Call, 3-5.

[77] Stepan, 99-100. Stepan's two dimensions of civil-military control indicate the importance of low military prerogatives and low military contestation in new democratic regimes.

[78] For a more detailed discussion of war transitions and its effect on reform see Call, Introduction and Chapter One.

President, with 68.2% of the votes cast, campared with 31.6% for the FMLN candidate.[79]
In South Africa, elections in April resulted in the ANC gaining 63% of the vote. The
National Party (NP) was the only other significant contending political party closing with
just 20% of the poll.[80] The results of these elections show that in El Salvador, the
balance of power was tipped in favor of the rightist government, while in South Africa,
the rightist government was discredited and the opposition (ANC) held the overwhelming
power.

Negotiations of internal security reforms in El Salvador involved the interests and
power of the government, military (which included the police), armed insurgents and the
international community. During negotiations, the influence of the government and their
armed forces were dominant. The government and military wanted the demobilization of
the armed insurgents, or FMLN. Although in a weaker position, the FMLN pushed for
the dissolution of all the internal security forces and the creation of an entirely new police
force in which they could participate. The FMLN pushed for sweeping change fearing
that this would be their only opportunity to have their demands met. The United Nations
was instrumental in promoting the compromise that was needed for agreement between
both sides and its involvement led to a much more radical reform of the internal security
apparatus than would have occurred in its absence. The resulting agreement reflected not
only the demobilization of the FMLN sought by the government, but also detailed and
comprehensive changes to the internal security apparatus demanded by the FMLN. El
Salvador's internal security reform could be characterized by a "shock treatment"
approach – radical changes in the internal security apparatuses were called for in a
relatively short period of time.

In South Africa, the balance of power between advocates and opponents of police
reform was quite different. South Africa's apartheid government was discredited as a
repressive and exclusionary regime that needed changing. Oppositional forces enjoyed
the overwhelming support of the population. As a result, the ANC did not feel compelled

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[79] David Browning, "El Salvador: History," in South America Central America and the Caribbean
2000, Eighth Edition (London: Europa Publications Limited, 2000), 345.

[80] Christopher Saunders, "South Africa: Recent History," in Africa South of the Sahara 2001,
Thirtieth Edition (London: Europa Publications Limited, 2001), 1056. See also Independent Electoral
Commission website: http://electionresources.org/za/1994/

to negotiate all facets of reform prior to the upcoming elections, as they realized that their political party and interests would be likely to dominate in the upcoming elections. The United Nations helped in the negotiation of peace; however, the peace agreement reached was not nearly as detailed and comprehensive as in El Salvador. Instead, South Africa's police reform was more gradual and the ANC kept police reform on the agenda in the years following the transition.

The degree to which the reforms are implemented is dependent on the balance of power among the key actors affected by the reforms. In El Salvador, the balance of power tipped in favor of the ARENA party closely allied with the military meant that the negotiated radical reforms became less so. In South Africa, the confident gradualism of the ANC led to fewer reforms than might otherwise have been expected. Surprisingly, both approaches, although very different (radical vs gradual) together with the different balances of power (rightist government vs opposition) produced similar outcomes – middle of the road reform measures.

This chapter discusses the transitions, negotiations, and police reform efforts in El Salvador and South Africa. The roles and interests of the actors affected by the police reforms are reflected in the reform efforts achieved. The sections on each country's reform is organized by the three characteristics of demilitarization.

A.   EL SALVADOR'S NEGOTIATED INTERNAL SECURITY REFORM

The UN-mediated settlement in El Salvador ended a long and brutal civil war between the Salvadoran army (the Armed Forces of El Salvador, or FAES) and the leftist guerrilla resistance movement, or FMLN, which raged on from 1980 to 1992. The results of the war were disastrous. Over 75,000 civilians and combatants were killed, crops were destroyed, and communications, as well as, transport infrastructures were ruined. Neither side had accomplished their political goals. It became evident that all Salvadorans had grown weary of a civil war that was destroying the social, political, and economic fabric of the country.

The end of the Cold War saw foreign military support for each side eroding. After many years of civil war, negotiations became the preferred option to resolve conflict between the government forces and the FMLN. Serious peace talks began in

December 1989 when the government of El Salvador and the FMLN independently approached the Secretary General to request that the United Nations provide mediation in support of a peace settlement. This initiative led to 2 years of UN-brokered negotiations and the eventual peace accords signed on January 16, 1992 in Chapultepec, Mexico. The Chapultepec accords dealt with the fundamental causes of the war by ending the armed conflict; by promoting democratization; by guaranteeing absolute respect for human rights; and by reunifying Salvadoran society. "These objectives are unprecedented; no previous civil war has ended with an agreement not simply to stop shooting but to restructure society."[81] The focal point of the peace accords was the reform of state institutions, and by far the most significant element was the across-the-board transformation of the nation's security system.[82]

Historically, El Salvador's security forces and paramilitary organizations maintained internal security under the direct control of the military. However, under the Chapultepec peace accords, the government agreed to the downsizing of the armed forces and mechanisms for purging human rights violators, the elimination of the public security forces (the National Guard, Treasury Police, and National Police), and the redefinition of the role of the military removing all internal security functions except under exceptional circumstances. In place of the former public security forces, an entirely new civilian controlled institution; the National Civilian Police (PNC) was created. It was composed primarily of personnel who took no part in the armed conflict on either side. In exchange, the FMLN agreed to a cease-fire and to the demobilization of their combatants. The accords also called for a new training academy with a new doctrine emphasizing the protection of individual rights and minimal use of force.[83] The implementation of the accords was monitored by a Salvadoran agency, the Commission for the Consolidation of Peace (COPAZ) and by an observer mission of the United Nations called ONUSAL.

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[81] Tommie Sue Montgomery, Revolution in El Salvador: From Civil Strife to Civil Peace, (Boulder: Westview Press, 1995), 226.

[82] William Stanley and Robert Loosle, "El Salvador: The Civilian Police Component of Peace Operations," in Robert B Oakley, Michael J Dziedzic and Eliot M Goldberg (Editors), Policing the New World Disorder: Peace Operations and Public Security (Washington DC: National Defense University Press, 1998), 105.

[83] William Stanley and Charles T. Call, "Building a New Civilian Police Force in El Salvador," in Krishna Kumar (Editor), Rebuilding Societies After Civil War: Critical Roles for International Assistance (Boulder, London: Lynne Rienner Publishers, 1997), 109.

The PNC was to be deployed over a two-year period, dating from the opening of the National Public Security Academy (ANSP). During this period, the new PNC, and its public safety division gradually deployed throughout the nation. During the transition, the old National Police (PN) continued to function but under supervision of the 277-member police division (CIVPOL) of ONUSAL. Conversely, the National Guard and the Treasury Police were to be completely abolished. Additionally, the PN was to be demobilized progressively as the PNC took over its functions, although in reality its demobilization was considerably delayed.[84]

1. Institutional Boundaries in Internal Security Forces: Creation of a New Civilian Police Force

The accords called for the separation of the police from the military, the dissolution of the old security forces and the creation of a new civilian police force, the National Civilian Police (PNC), which went to the heart of bringing about fundamental change in El Salvador. Limiting the numbers of former police and combatants and insisting on their retraining was essential to the urgent task of securing the trust of the population and preventing further human rights abuses. The accords dictated that former FMLN combatants and former PN members were limited to twenty percent membership each in the new PNC. The remaining sixty percent were to be composed of civilians, of which fifteen percent were women.[85] Entrance education standards were set for new recruits. Former police and FMLN combatants were required to meet admission standards for the new National Public Security Academy (ANSP) and go through a retraining course with emphasis on protection of individual rights, minimal use of force, and absolute adherence to apolitical conduct.[86]

In addition, part of the reforms called for the reduction and restructuring of the military reducing its size by approximately fifty percent to 31,000 over a two-year period and placing the armed forces under direct civilian control.[87] Additionally, the role and doctrine of the armed forces was redefined with its primary responsibility now being

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[84] Stanley and Call, 112-113.

[85] Montgomery, 237.

[86] Stanley and Call, 112.

[87] Philip J. Williams and Knut Walter, Militarization and Demilitarization in El Salvador's Transition to Democracy (Pittsburgh: University of Pittsburgh Press, 1997), 153.

national defense. Its role in public security was constitutionally limited to situations of national emergency only after notification of the legislature and under strict executive control. Furthermore, the military-controlled intelligence agency was dissolved and a new one set up under civilian control.[88] However, despite the wide breadth of changes in the accords, the political power of the conflict, and the close alliance between the government and the military, meant that any military resistance to reform was likely to lead to government inaction in carrying out reforms. [89]

The implementation of the military reforms proved to be a tenuous process. As Stepan asserts, reducing the military's prerogatives often produces an increase in conflict between the civilian government and the military.[90] However, El Salvador proved to be a case where the conflict arising from implementation was not so much between the government and the military, but rather between the government and the military on one side and the domestic oppositional groups and international actors on the other. Initial problems surfaced over the dismantling of security forces mandated in the accords. Instead of dissolving the National Guard and the Treasury Police as per the accords, they were renamed (the Frontier Police and Military Police) and incorporated, structurally intact, into the army. As a result, the FMLN accused the army and the Cristiani government of slight-of-hand announcing that it would postpone the demobilization of the first group of combatants.[91]

The military High Command's reluctance to comply with the accords regarding the dismantling of security forces was a result of two factors. First, the military looked to the security forces as a "bargaining chip" to enforce FMLN demobilization set forth in the accords. Second, the military's resistance reflected its reluctance "to give up the extensive network of social control in the countryside, of which the security forces were an integral part."[92] Third, there was significant opposition from within the security forces. In contrast to the Army, the National Guard and Treasury Police had a strong

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[88] Williams and Walter, 152.

[89] Hugh Byrne, El Salvador's Civil War: A Study of Revolution (Boulder: Lynne Rienner Publishers, 1996), 193.

[90] Stepan, 101.

[91] Montgomery, 246.

[92] Williams and Walter, 154.

corporate identity and comprised mostly of career officers who would naturally put up resistance.[93] Nevertheless, by September the National Guard and Treasury Police were eliminated, although many former members continued to serve in public security roles.

El Salvador's transitional crime problem created significant political pressure on the government to take strong measures to protect its citizens. Full deployment of the PNC was the unchallenged, long term, best strategy toward professional crime fighting and deepening of democracy. However, the early month's of transition forced the Salvadoran government to rely on the PN closely monitored by ONUSAL's CIVPOL. However, the military, in confrontation with the government, refused to provide needed vehicles and equipment needed for PN operations. Rather than dealing head on with the military and the Defense Ministry, the Salvadoran government responded by increasing PN's personnel and transferring 932 Treasury Police and 116 National Guard to augment the PN, sometimes keeping entire companies intact and merely changing their uniforms.[94]

The UN challenged this clear violation of the peace accords. They also questioned the intent of the government to comply with the requirement to demobilize the PN by September 1994. The old National Police training school continued to produce nearly 100 new policemen per month until the end of 1993. The Cristiani administration was responsible in delaying the demobilization plan by over one year to March 1995. However, the political tide finally began to turn against the PN when incoming President Armando Calderón Sol ordered an accelerated demobilization of the PN following a widely televised armored car robbery carried out by uniformed PN agents. The Calderón administration committed increasing resources to the PNC, expanding the budget dramatically between 1995-1996. The main equipment shortages were resolved and the financing sufficient to enable the PNC to expand, passing 14,000 by 1997.[95]

2.   Professionalization of Internal Security Forces

In order to produce fundamental change to the nature and culture of internal security forces, there must be extensive training and education programs to ensure that

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[93] Williams and Walter, 154.

[94] Williams and Walter, 154.

[95] Stanley and Call, 121

troops and police exhibit levels of professionalism that will inhibit human rights abuses. This entails comprehensive training programs, restructured military and police schools, professional recruitment and selection processes, and reform-minded leadership.

a.   Armed Forces Professionalization

As part of the accords the armed forces' educational system was to be revamped, incorporating into its training programs the new constitutional mission and doctrine. A new academic council for the military academy, made up of civilians and military, was tasked with overseeing curriculum, admissions procedures, and faculty appointments.[96] Additionally, the U.S. military group (MILGROUP) in El Salvador, operating independent of the UN, was very much involved in professionalization of the armed forces. Their mission included training, advising, and assisting with the restructuring of the armed forces. MILGROUP was instrumental in the creation of a senior civilian and military leader school, named the School of High Strategic Studies, which opened in September 1993.[97]

b.   The New Police Academy

The development of the new National Public Security Academy (ANSP) had an ambitious timetable of only three and a half months. This was due to the overall importance of police reform to the peace process and the urgency of completing the transition during the brief period of the UN observer mission. However, there were delays from the beginning. Curriculum development took longer than expected and the government initially failed to provide needed funds for such things as recruitment, testing, uniforms, and food. International donors, sensing a lack of commitment from the Salvadoran government, held back on providing funds. The military contributed to delays and shortfalls by refusing to hand over the existing public security academy. In fact, the military appropriated this facility as its own new military academy. Consequently, the ANSP was forced to set up in a temporary facility at Comalapa on the coastal plain, which required an expenditure of $4.5 million dollars to refurbish.[98]

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[96] Williams and Walter, 152

[97] McCormick, 297.

[98] Stanley and Call, 113.

A team of technical experts, five representatives each from Spain and the U.S. and seven from El Salvador assisted with the establishment of the Academy. This team was assembled in May 1992 to develop a comprehensive plan for the Academy's lesson plans, disciplinary codes, infrastructure, and budget. Additionally, two other organizations were involved in aiding and monitoring reform operations. The National Commission to Consolidate Peace (COPAZ) was responsible for monitoring the progress of the PNC and the Academy. The U.S. Justice Department's International Criminal Investigative Training Assistance Program (ICITAP) played an independent role in police reform by providing American instructors for the Academy and advising the Director of the Academy and PNC.[99]

The Academy was set up in semi-permanent facilities, and with delays stemming from a number of obstacles ranging from inadequate infrastructure to insufficient financing, the first classes began three months behind schedule. Within months, however, the Academy had over 2,200 cadets in residence.[100]

c. Civilian Recruitment, Selection, and Training

The recruitment and testing processes were predictably fraught with problems. Early testing placed an emphasis on physical fitness rather than intellectual aptitude. This resulted in new cadets being unsuited to the demands of the new PNC's emphasis on knowledge of the law, intelligence, and interpersonal skills rather than force. ONUSAL and COPAZ criticized the testing process which led to the development of new testing. Although the Salvadoran government had a large recruitment campaign, the first two years of recruiting met with lower numbers of applicants than anticipated due to poor public perceptions and low salaries.[101]

Controversy also arose over admission procedures and candidate selection. ONUSAL reported that large numbers of recruits from the disbanded security forces and armed forces were concealing their previous associations and obtaining entrance to the Academy. Additionally, the Academy had a difficult time drawing enough FMLN and civilian recruits to offset the overabundance of ex-PN and ex-soldiers who were trying to

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[99] McCormick, 299.

[100] McCormick, 299.

[101] Stanley and Call, 113.

gain admission. Upon ONUSAL's recommendation, the government bolstered its recruiting campaign with visits to low turn-out areas offering increased pay and benefits for PNC members.[102]

The ANSP's quality of training has received mixed reviews. The monumental effort of training a completely new police force in two years is certainly commendable. However, the early classes had been trained without access to basic policing tools such as, handcuffs, batons, fingerprinting sets, basic crime lab equipment, photography lab, vehicles, driving track, adequate firearms and shooting range. Furthermore, training in the legalities of how police officers should conduct themselves was lacking, resulting in graduates poorly trained in criminal procedure. ONUSAL officials believed these deficiencies led to lapses in due process protections and more serious human rights violations emerging in late 1993.[103]

Puerto Rico and Spain have provided some of the best training for the new PNC. At an academy in Puerto Rico, 60 officers received an accelerated training course to serve as transitional commanders during the initial deployment of the first PNC contingents. Officers who attended this program were unanimously positive about the experience. Foreign instructors from Spain, Chile, and the United States were brought in to the ANSP filling crucial gaps in the training and instruction of the PNC.[104] However, this proved to be a mixed blessing in that there were disagreements and lack of coordination among various international contingents as to the content of training, such as what model of policing (i.e. human rights emphasis or community policing) should be emphasized.[105]

d. Civilian Leadership within the Old and New Police

By the end of 1993, the early successes of the PNC were in danger of being reversed. There were several factors, which contributed to this fear. The PNC was deployed in only about half of the country. Elsewhere, especially in San Salvador, the old National Police were still in charge of public security functions. Although the

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[102] McCormick, 300.

[103] Stanley and Call, 114.

[104] Stanley and Call, 114.

[105] McCormick, 301.

National Police was moved to the Ministry of Interior, a retired Colonel headed the Ministry. Furthermore, the director of the National Police was an active duty officer.[106] In January 1994, the government announced the suspension of PN's demobilization, claiming they were needed due to the soaring crime rates.

The appointment of the former head of the narcotics division (UEA), Captain Oscar Peña Durán, as Sub-Director of PNC operations, unfavorably affected the UN's ability to oversee the deployment of the new PNC. Although Peña Durán was more experienced than any civilian competitor for his new position, his appointment was in direct violation of the peace accords that civilians command the PNC. Furthermore, he proved to be disastrous to the development of the PNC with his political bias, militarism, and disregard for human rights. His actions quickly eroded the international community efforts at instilling democratic values in the PNC. The most costly of his actions was his severing relations with ONUSAL, whose resources and technical assistance were the most substantial contribution by the international community. Eventually, he resigned under pressure from the UN in May 1994. Newly elected President Armando Calderón Sol publicly voiced his unequivocal support for the PNC and took steps to demobilize the PN by December 31, 1994.[107]

3. Establishment of Mechanisms of Accountability

The establishment of any democratic institution necessarily must include the development of meaningful mechanisms of accountability. Accountability mechanisms must first deal with past abuses, identifying and in many cases purging the internal security forces of perpetrators.[108] Second, institutions of accountability must be given priority to ensure that advances in other areas of reform are not reversed and human

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[106] Williams and Walter, 175.

[107] Stanley and Call, 117.

[108] There are several arguments as to how to deal effectively with past human rights abuses. However, there is general agreement that the establishment of truth about past abuses helps society come to grips with that past, although significant controversy over how justice should be served continues. For a review of several methods of arriving at truth and reconciliation after periods of repression and systematic human rights abuses see José Zalaquett, "Truth, Justice, and Reconciliation: Lessons for the International Community," and Priscilla B. Hayner, "In Pursuit of Justice and Reconciliation: Contributions of Truth Telling," in Cynthia J. Arnson (Editor), Comparative Peace Processes in Latin America (Washington DC, Stanford: Woodrow Wilson Center Press, Stanford University Press, 1999).

rights abuses are not allowed in the future. Ideally, this should include both external and internal mechanisms of accountability.

a.   Ad Hoc Commission, Truth Commission, and Joint Group

In keeping with the accords, the Ad Hoc Commission was established to "purify" the armed forces. Made up of three prominent Salvadorans appointed by the U.N. Secretary-General and approved by President Alfredo Cristiani, the Commission was established to oversee the restructuring of the armed forces. Its task was to review the human rights records, professional competence, and suitability of all military officers for continued service in the armed forces and submit their recommendations in a confidential report to the President and the Secretary-General. Due to the sheer numbers involved, the Commission, however, chose to review only 232 records of mostly senior officers.   The report submitted to President Cristiani on September 23, 1992 recommended the discharge of 102 senior officers and the reassignment of 40 others including the Minister of Defense, General René Emilio Ponce.[109]

President Cristiani rejected the Commission's recommendations, requesting the Secretary General's approval to allow the most powerful officers to retain their posts until August 1993. Tensions mounted as the Secretary General refused Cristiani's request, and in October 1992, Cristiani agreed to dismiss the officers by the end of the year. However, senior military officers pressured Cristiani with implications that the Commission had not respected the legal rights of officers and failed to give them reasons for their dismissals. After a second round of negotiations, Cristiani finally complied, and on July 1, 1993, he replaced the Minister of Defense with retired Colonel Humberto Corado Figueroa.[110] The manner in which this situation was handled by the government raised doubts about whether the peace process had really cemented civilian control over the military.

The Truth Commission was a complement to the Ad Hoc Commission, composed of foreign commissioners selected by the Secretary-General. Their objective was to "investigate serious acts of violence that had occurred since 1980 and whose

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[109] McCormick, 292-293.

[110] McCormick, 293

impact on society urgently required that the public should know the truth."[111]   This included some of the most notorious cases including the murder of six Jesuit priests in 1989 and the killing of four U.S. marines in San Salvador in 1985. The Commission was to uncover the truth about the worst cases of abuse committed by the military, the police, and the FMLN. Most of the information was gathered on a confidential basis to alleviate fears of repercussion, which meant that the accused did not have a chance to confront their accusers. Overall, the Commission received over 22,000 complaints of various acts of violence, which occurred during the civil war period.

In addition to shedding light on past atrocities, the Commission made numerous far-reaching recommendations, specifically: the dismissal from the armed forces or civil service, and disqualification from public office for ten years of all persons named in the report; the resignation of all members of the Supreme Court; deconcentration of power of the Supreme Court; investigation of death squad activity; new legislation guaranteeing due process in the criminal justice system; and ratification of human rights instruments and acceptance of compulsory jurisdiction of the Inter-American Court of Human Rights.[112] The Secretary-General had hoped that the Truth Commission Report would be a watershed in the process of reuniting Salvadoran society. However, the government's reaction was dismissive. Members of the Supreme Court denounced it and President Cristiani called for an amnesty immediately before the report was released.[113]   Furthermore, many of the recommended structural changes were impossible to put into effect immediately as they required constitutional amendments, which would take two successive legislatures to ratify.[114]

From August to November 1993, ONUSAL received forty-seven complaints of possible political homicides being carried out by "death squads," which prompted the establishment of a Joint Group to conduct the investigations. The Joint Group was created in December 1993 and composed of two independent nominees by

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[111] Ian Johnstone, "Rights and Reconciliation in El Salvador," in Michael W. Doyle, Ian Johnstone, and Robert C. Orr, Keeping the Peace: Multidimensional UN Operations in Cambodia and El Salvador (Cambridge: Cambridge University Press, 1997), 319.

[112] Johnstone, 322.

[113] Johnstone, 320-322.

[114] Johnstone, 323.

President Cristiani, the El Salvador human rights ombudsman and the Director of ONUSAL's Human Rights Division. Their task was to investigate the activities of "death squads" from January 16, 1992 (the signing of the Peace Accords) to the present.

The Joint Group's report issued in July 1994 verified that "death squads" continued to exist after the signing of the Peace Accords, but that the organs of the state generally were not involved. However, the report did find that illegal armed groups continued to exist under the umbrella of some members of the armed forces and the National Police and that the justice system "continued to provide the margin of impunity these structures require." The Joint Group recommended three main changes: (1) the creation of a special unit within the Criminal Investigation Division (DIC) of the PNC to continue investigations; (2) the utilization of the human rights ombudsman to monitor the investigations; and (3) the elimination of all magistrates and judges who were involved in legal infractions or professional misconduct.[115]

b.   *International Verification – ONUSAL*

The UN Observer Mission in El Salvador (ONUSAL) began work in July 1991, prior to the cease-fire, but was expanded to include military and police divisions once the Peace Accords were signed. The Military Division was responsible for verifying the separation of forces, and the demobilization of FMLN and selected military and security force units. Upon initial glance, it would appear that the Salvadoran government implemented the majority of the required structural and doctrinal changes within the armed forces. ONUSAL "verified" that the armed forces had reduced its personnel by more than fifty percent as of March 31, 1993, almost a year in advance of schedule. However, the drastic reduction in forces in such a short amount of time might not have been as dramatic as it first appeared. The FAES had initially claimed a total of 63,175 soldiers at the time of the ceasefire, but evidence seems to suggest that these numbers may have been inflated.[116]

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[115] Johnstone, 324.

[116] It was discovered that the former Bracamonte Battalion Barracks, subsequently vacated for the establishment of the National Public Security Academy, was inadequate for a battalion-sized unit. Cited in D. H. McCormick, "From Peacekeeping to Peacebuilding: Restructuring Military and Police Institutions in El Salvador," in Doyle, Johnstone, and Orr, 295 and fn49 on the same page.

During this period, the Military Division of ONUSAL also verified the dissolution of the military structure of the FMLN. Throughout demobilization, ONUSAL and the FAES accused the FMLN of keeping large quantities of military weaponry. However, despite government protests, ONUSAL finally accepted the FMLN's claims and officially verified its weapons inventory on December 14, 1992. Six months later, an undisclosed FMLN weapons supply exploded in Managua, and subsequently, numerous other caches were found. Both examples raised concern over the intrinsic limitations of verification procedures.[117]

The ONUSAL Police Division was tasked with assisting in the transition to a new civilian public security regime. The Police Division was to have a total of 631 police observers, almost twice the number authorized for the Military Division. The idea was that the Police Division would need to deploy throughout the country, whereas the government and guerrilla forces were confined to a small number of bases. The ONUSAL Police Division never reached half of its authorized strength. The main reason was the limited number of countries able and willing to send qualified personnel.[118]

In general, the police officers sent to El Salvador had adequate professional qualifications, however, different foreign police forces' ranking systems created friction in assigning duties and establishing a command hierarchy. Within headquarters, this was managed to some degree by giving each delegation a different portfolio such as: Italians were given charge of personnel, while Spaniards ran operations. However, this was not always practicable, and compromises had to be made.[119]

Another area worthy of scrutiny was the coordination between the Police Division and the Human Rights Division within ONUSAL. The Police Division's responsibility to oversee the field work of the PN implied close coordination with the Human Rights Division to identify and investigate possible abuses involving the police, military, and politically motivated groups. However, these divisions worked separately

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[117] McCormick, 295-296.

[118] Stanley and Loosle, 111.

[119] Stanley and Loosle, 112.

and did not have the access to each other's information, which resulted in duplication of effort and even conflicting results.[120]

c. Human Right Ombudsman, Office of the Inspector General, and Office of Internal Affairs and Discipline

An important aspect of the agreement on legal and constitutional reform was the creation of the National Counsel for the Defense of Human Rights (ombudsman), headed by Dr Eduardo Molina. The ombudsman was given powers to investigate cases, promote judicial or administrative remedies, monitor state institutions, recommend legislation, and propose systemic reforms. However, financial constraints contributed to a slow start and slow development. By June 1994, only five regional offices were activated, three of which were opened in the preceding two months. The goal of setting up one office in each of El Salvador's fourteen departments was not reached until 1995.[121]

The ombudsman lack both moral and legal authority, thus undermining his ability to act as a check on the police. Non-governmental human rights groups expressed concern over Dr Molina's lack of experience and questioned his firmness for the job. In response, Dr Molina acted with extreme caution carrying out his role "discreetly" rather than through public confrontation. However, more seriously, he did not rate very high with other organs of the state as officials felt free to ignore his non-binding recommendations.[122]

Towards the end of its peacekeeping mission, the tide began to turn when the U.N. increased funding and renewed efforts to strengthen the ombudsman's office. This coupled with the Joint Group participation increased its responsibilities and level of activity. In March 1995, Ms. Victoria Maria de Avilés was elected as the new ombudswoman. Her legal expertise and commitment to human rights was widely recognized. However, her personal commitment was not in step with the government's and she had to rely largely on international funding.[123]

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[120] Stanley and Loosle, 113-114.

[121] Johnstone, 330-331.

[122] Johnstone, 331.

[123] Johnstone, 332.

The internal institutions of accountability were slow to develop, which was partially responsible for the rise in PNC abuses. An Inspector General Office was not created until the Administration of President Calderón Sol. The Inspector General was appointed in June 1994, a full eighteen months after the first PNC agents were deployed. Additionally, the lack of a working Office for Internal Affairs and Discipline during the first year of the PNC's operation likely contributed to lax standards of conduct evident in the nascent months of the new police force. The delay in formation of these institutions can be attributed in part to government reluctance. However, the rush to deploy operational units coupled with an over reliance on the UN Police and Human Rights Divisions already deployed throughout the countryside are also to blame for the delays.[124]

B. SOUTH AFRICA'S NEGOTIATED INTERNAL SECURITY REFORM

The problems and challenges facing South African security policy today have their origins in the apartheid era, especially the militarization that took place in the "Total Strategy" period from 1977 to 1989. It was then that the present character of the armed forces and civilian police forces were largely determined. With the demise of Total Strategy and the onset of negotiations to end apartheid, which eventually led to the installation of the ANC-led Government of National Unity in May 1994, the South African security environment changed profoundly. However, in contrast to El Salvador's "shock treatment" reform strategy, the nature of South Africa's security reform was incremental and thus manageable by the existing power structures. Under de Klerk, debate and reappraisals of potential threats took place within the security forces where the idea of a "total onslaught" finally gave way to a more complex appreciation of "threats." This understanding played an important role in the reorientation and redesign of the security forces.[125]

Police reform began well before South Africa's transition to democracy. Frederik de Klerk won the national presidency in September 1989 in the midst of unresolved crisis. The 1989 election saw four times as many people on strike that day than those

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[124] Stanley and Call, 119.

[125] South African Defence Force Review 1993 (Pretoria: 1 Military Printing Unit, South African

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who voted. The Weekly Mail headline reporting on the results of the election read, "Nat: 93, Con: 39, Dem: 33, Hurt: 100, Dead: 23."[126] Although de Klerk inherited the same problems and personnel as the cabinet of his antecedent, his style and policies were completely different. De Klerk set out to change the SAP from above. He ordered commissions of inquiry to investigate public violence and accusations of police death squads. He sweetened this announcement by following up with a seventy-nine percent increase in pay for the police and a promise to increase manpower by ten thousand in the first year by shifting expenditure from defense to the police. De Klerk attempted to demilitarize the SAP by removing them from border duty in 1990 and announced that policing emphasis would shift from a focus on political activity towards combating ordinary crime.[127]

However, de Klerk's best intentions at the process of reforming the police did not result in diminished violence and his conservative economic modernization plans did not fare well. In response, the business community pursued negotiation over confrontation, not only in the workplace but also in politics. National Party leaders reluctantly decided that their future was better ensured by engagement with the ANC. Changes in elite interests were brought about by the threat mobilization by township residents and workers posed. This motivated the powerful members of the economic elite to push regime elites towards compromise. "Indeed, the bargaining between business and labor that preceded and then paralleled the political negotiations reinforced mutual confidence that compromise on the terms of the transition was possible."[128]

During the first few months of 1991, increasing violence was destabilizing KwaZulu-Natal and large areas of the Transvaal, and evidence of police involvement in the violence was growing. To address this issue the ANC agreed to a peace summit at which a formally binding agreement between themselves and the government could be reached. Following long and bitter negotiations, all parties signed a National Peace

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Defence Force, 1994), 25.

[126] Cited in Elisabeth Jean Wood, <u>Forging Democracy from Below: Insurgent transitions in South Africa and El Salvador</u> (Cambridge: Cambridge University Press, 2000), 181. Nat stands for the National Party, Con refers to the Conservative party, and Dem to the Democratic party.

[127] Brewer, 321-322.

[128] Wood, 193.

Accord on 14 September 1991. The agreement contained "general provisions" which included the following pertaining to the police: "The police shall endeavor to protect the people of South Africa from all criminal acts and shall do so in a rigorously non-partisan fashion…The police shall be guided by the belief that they are accountable to society…and shall conduct themselves so as to secure and retain the respect and approval of the public…the police shall endeavor to obtain the cooperation of the public whose partnership in the task of crime control and prevention is essential…"[129]

The National Peace Accord provided a code of conduct for the police that emphasized preservation of constitutional rights, securing the favor and approval of the public, minimum use of force, sensitivity to the balance between individual freedom and collective security, and professionalism and honesty. The core criticism of the code at the time was that it did not provide concrete mechanisms of enforcement, nor incentives for compliance. However, there is little dispute that the Accord and the code of conduct provided the vision for police reform. The key principles in these documents are those that embody all models of community policing: accountability, integrity, impartiality, and effective service.[130]

1. Institutional Boundaries in Internal Security Forces

South Africa's democratization process includes the demilitarization of its internal security forces and establishment of civil-military relations that reflect democratic norms. Democratic civil-military relations involve restrictions on the security forces' political activities and civilian control over the military and police institutions. Civilian control of security forces is a two-fold issue. First, it involves civilian control of the security forces and the development of doctrine that will help shape the force design. The second key issue is the composition of the forces, which guarantees the maintenance of an "interethnic distribution of power."[131] The implication is that civil-military transition involves institutional change within the military and the police forces.

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[129] National Peace Accord, (1991), Sections 3.1.1-3.1.4.

[130] Eric Pelser, "The Challenges of Community Policing in South Africa," Occasional Paper No 42 (Pretoria: Institute for Security Studies, September 1999): 2.

[131] Robert J. Griffiths, "South African Civil-Military Relations in Transition: Issues and Influences,"

a. Civil-Military Relations and Integration

Like the police reform measures, armed forces reforms began before the elections in 1994. The framework for a new defense and security policy was established after the installation of the Transitional Executive Council (TEC) in October 1993, a multi-party body that effectively ran the country preceding the April 1994 elections. Policy was debated and determined collectively by the ANC, the National Party (NP), the homeland governments, the SADF, and the SAP. The TEC Sub-Council on Defence and the Joint Military Coordinating Committee (JMCC) were tasked with drawing up a threat analysis upon which the new defense policy would be planned. The culmination of these efforts were detailed in the 1994-1995 annual report, suitably titled, The National Defence Force in Transition.[132]

One aspect of structural change was that of the organization of the Ministry of Defence and the SANDF. These structural changes, which took effect in March 1995, entailed the establishment of a "balanced" structure, headed by a civilian minister of defense, and assisted by a deputy minister. The Ministry would comprise the SANDF and the new civilian Defence Secretariat. The "balance" would occur within the Department of Defence, with the armed forces (military) on one hand and the Secretariat (civilian) on the other. This marked a departure from the past, when a civilian minister (most often with military experience) lead a ministry that was totally dominated by the military, had no civilian representation, and was subject to no effective means of financial or policy accountability.[133]

South Africa's reform efforts involved the integration of the old apartheid-era South African Defence Force (SADF) with the former guerrilla armies of the African National Congress (ANC) and the Pan-African Congress (PAC), as well as the armed forces of each of the four "homelands" (Transkei, Ciskei, Venda, and Bophuthatswana). In the months prior to the April 1994 elections, the senior officers of the various forces negotiated a detailed agreement specifying how the new South African National Defence

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Armed Forces and Society, (Spring 1995): 396.

[132] Greg Mills, "The South African National Defence Force: Between Downsizing and New Capabilities," Naval War College Review (Winter 1999): 79.

[133] Mills, 80.

Force (SANDF) would be created out of the integration process that was scheduled to follow the elections. ANC and PAC guerrillas, numbers totaling approximately 28,000 and 6,000 respectively, were to report in groups of 1,500 at one of three assembly points, where they would muster into the new SANDF and undergo a period of review and training designed to reduce differences in the different standards of the various forces. A British Military Assistance Training Team was available at each assembly point to ensure procedures and standards were fair for all involved.[134]

The defense force grew from 84,000 to more than 99,000 by 1 May 1997. By this time, former SADF military were reduced through early retirements and made up approximately sixty-five percent of the new SANDF, while twelve percent were former ANC or MK members and the rest were from the PAC and homeland defense forces. An Integration Committee, made up of service component representatives of all the former forces, was initiated to implement and oversee the integration process.[135]

Once integration was concluded, the next part of the integration phase was the demobilization of the individuals who did not have the skills, or abilities for continued service (mostly due to age, lack of education, and poor health). To help those who were involuntarily separated, the Ministry of Defense (MOD), with cabinet approval, launched the Service Corps in January 1995, whose purpose was to help integrate ex-military into civil society. Ex-military were allowed to enter the Service Corps where they could work for one year, acquiring vocational training to become job-competitive upon entering civilian life. Monetary disbursements, such as gratuities, death benefits, and separation pay were also granted based upon years of service.[136]

Another area of change was redefining the role of the armed forces. The 1996 White Paper on defense, "Defence in a Democracy," and the Constitution stipulate the roles and obligations of the armed forces. The White Paper notes the dramatic changes in the external strategic environment from South Africa's perspective. The

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[134] Jakkie Cilliers, "Security and Transition in South Africa," in Larry Diamond and Marc F. Plattner (Editors), <u>Civil-Military Relations and Democracy</u> (Baltimore: The Johns Hopkins University Press, 1996), 92.

[135] James Winkates, "The Transformation of the South African National Defence Force: A Good beginning," <u>Armed Forces and Society</u> (Spring 2000): 460.

[136] Winkates, 461.

absence of a conventional military threat provided the rationale for downsizing, and rationalization or "rightsizing" the SANDF. The white paper points out that "the size, design, structure and budget of the SANDF will therefore be determined mainly by its primary function," the defense of the Republic.[137] However, the White Paper also notes that employment of the SANDF in support of the police is likely to persist, "because of ongoing public violence and the relative shortage of police personnel."[138]

The details of the SANDF force design is stipulated in the Defence Review 1998, which "rightsizes" the military to approximately 90,000 in total personnel strength. In addition to size is the element of composition, which has been scrutinized heavily during this phase of transformation. The new SANDF, as of 11 May 1997, shows an ethnic mix of fifty-six percent African, thirty-one percent white, twelve percent colored, and one percent Asian.[139] World Factbook 2001 has South Africa's overall ethnic composition at seventy-five percent black, thirteen percent white, nine percent colored and three percent Indian.[140] During the apartheid era, the SADF was almost exclusively white, and these new demographics demonstrate considerable effort to effect a more representative military force.

b.   *The Interim Constitution and Police Reform*

The first formal reference to community policing and guide to police reform was found in the Interim Constitution for the Republic of South Africa, which came into force on 27 April 1994,[141] and is comparable to the Peace Accords that guided police reform in El Salvador. It provided, for example, fundamental guidelines for the reform of public service in general, and the "security services" in particular: the police and defense forces in existence at the time. Specifically, the new Constitution provided for the establishment of a single police service, the South African Police Service (SAPS),

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[137] "Defence in a Democracy: White Paper on National Defence for the Republic of South Africa," (Pretoria: Department of Defence, May 1996), Chapter 5.

[138] Cited in Mills, 82

[139] MOD composition by ethnic origin is found in Defence Review Chapter 10 located at website http://www.mil.za/Articles&Papers/Frame/Frame.htm

[140] South African country demographics is found in the CIA World Factbook 2001 located at website: http://www.odci.gov/cia/publications/factbook/geos/sf.html

[141] The Interim Constitution has since been adopted on 8 May 1996 and has been in force in its present state since 7 Feb 1997. The Constitution can be found on website: http://www.uni-wuerxburg.de/law/sf00000_.html

instead of the existing eleven agencies.[142] The Interim Constitution provided the major set of "rules" for the transformation of all state departments. This has been particularly significant for the state's "coercive instruments," the police (Department of Safety and Security), and the defense force (Department of Defence). Since 1994, these departments have produced numerous policy documents, in order to provide departmental perspectives on the interpretation of the Constitution. The Bill of Rights and the fundamental rights embedded in Chapter two of the Constitution have provided a powerful framework of values for the reform of statutory and discretionary powers.[143]

c.   Reconstruction and Development Programme (RDP)

While often understood as an economic program, the government's major national policy framework, the Reconstruction and Development Programme (RDP), also exercised a major influence on the goals of police transformation. With "peace and security for all" as one of its six basic principles, the RDP also determined that the police must be made more representative of the people, more responsive to human rights, and more answerable to the communities they serve. The SAPS was required to transform in accordance with the criteria outlined in the White Paper on the reform of the public service.[144]

The *White Paper on Reconstruction and Development* published by the Government of National Unity in September 1994 declared optimistically:

> The policy framework behind the renewal, which transforms society, is the Reconstruction and Development Programme (RDP). The RDP offers our country a unique opportunity to bring about renewal, peace, prosperity, reconciliation, and stability. It is the product of ongoing consultation and it enjoys widespread support from all sectors of our society. It has been adopted and supported by all political parties in the Government of National Unity and in Parliament, and by all sectors of our society. It is rare for a new government to have a coherent vision. It is

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[142] Mark Malan, "Police Reform in South Africa: Peacebuilding without Peacekeepers," African Security Review 8, no. 3, (1999): 3. This document can be found at the following internet website: http://www.iss.org.za/Pubs/ASR/8.3/Police%20reform.html

[143] Mark Malan, "Peacebuilding in Southern Africa: Police Reform in Mozambique and South Africa," International Peacekeeping 6, no. 4, (Winter 1999): 179.

[144] White Paper on the Transformation of the Public Service (Cape Town: Ministry for the Public Service and Administration, 15 November 1995).

even more unusual for that vision to be supported by a national consensus.[145]

Although the efficacy of the RDP remains to be proven, agreement on the RDP represents a considerable achievement for all sectors of South African society. The contrast of this achievement with the negotiated reform of El Salvador is significant. The absence of civil society involvement in El Salvador's internal security reform negotiation indicates the level of distrust that leftist opposition groups felt towards all levels of government and the public who supported them. The FMLN likely felt that the impending election with the odds favoring the ARENA party would not allow concessions favoring their demands. As a result, the FMLN wanted the peace accords to contain all the major agreed upon reforms, rather than waiting for civil society input and support after the election. In South Africa, the fact that the ANC won the election allowed for more participation from all sectors of society.

d.   Police Transformation

The reforms in the police and criminal justice system concentrated on changes in control, structure, organizational culture, and composition. The defense force was generally seen as technically strong and efficient in comparison to the inefficient, badly trained, ill equipped, and poorly led police. The main reason for this was years of institutional neglect. The police were looked upon as the poor cousin of the SADF and a dumping ground for whites who could not find employment elsewhere. The SADF had never felt threatened by the police in contrast to the situation in El Salvador. The large number of transfers between the SADF and the SAP and vice versa also indicated the pleasant nature of their relationship. Additionally, the SAP was a product of institutional isolation. The SAP was a "closed" organization during apartheid, whereas the SADF managed to keep up with modern advancements in both technology and tactics. As such, the relationship between the military and the police did not present any roadblocks to reform as did in El Salvador. The SANDF did not feel threatened by the police reform measures.

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[145] White Paper on Reconstruction and Development: The Government Strategy for Fundamental Transformation (September 1994), Section 0.2.

Once negotiations got underway, the SAP (to a greater degree than the SADF) found there was intense community pressure to change and reassess its role and methods. One of the ANC's strongest demands prior to transition was related to improvements in policing and the lifting of restrictive laws. The requirement for open political activity, essential to a successful democratic transition, put enormous pressure on the SAP to reassess its roles particularly in facilitating mass protests. The SAP, unlike the SADF, faced demands from communities at the local level for change. It also faced internal pressure for change from the Police and Prisons Civil Rights Union (POPCRU), which had formed in 1989, well before the transition. POPCRU argued for both the human rights of police and those of the public. In short, democratization of the police force was necessary if it was to function as a community service.[146]

The process of changing from a police force to a police service began with the 1995 appointment of a civilian National Police Commissioner as head of the SAPS. Before the 1994 elections, a significant amount of research on policing the post-apartheid South African society was accomplished by universities, non-governmental organizations (NGOs), political parties, and the SAP. The result was that South Africa should develop a "community policing" style similar to those found in developed democracies. Although these facts might lead one to expect rapid change, the process, in contrast to El Salvador's, was incremental by design. One reason which accounts for the incremental nature of reform efforts is that the oppositional group attained the majority power within the government. In contrast to ARENA's power-base in El Salvador, South Africa's new government was dominated by the ANC party and thus felt that their demands would be met. Even though a lot of research went into the determining of the reform path, the implementation of the reform efforts could move along slowly incorporating changes as the need occurred.

The police reform process in South Africa was managed in three distinct but overlapping phases:

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[146] Cawthra, 164.

- Phase 1 – *Rationalization*: to ensure effective administration at national and provincial levels of government as prescribed by the Constitution.

- Phase 2 – *Amalgamation*: the physical amalgamation of the various existing policing agencies into one national police service.

- Phase 3 – *Change*: the transformation of SAPS into a "professional, representative, efficient and effective, impartial, transparent and accountable service" which "upholds and protects the fundamental rights of all people, and which carries out its mission in consultation and cooperation with the needs of the community."[147]

Phase 1 and 2 (rationalization and amalgamation) were legislated in the new South African Police Services Act (4 October 1995), which provides for the establishment, organization, regulation, and control of the South African Police Service with a single budget and command structure. Community policing was also legislated in the Constitution for the implementation of Phase 3 (change).

e. National Crime Prevention Strategy

The National Crime Prevention Strategy (NCPS) was adopted by the cabinet in May 1996 as an "overarching vehicle for police reform." The NCPS, a wide-ranging 88-page document in small single space type, was intended to address the lack of coordination and interdepartmental linkages in the fight against crime through a "comprehensive multi-agency approach to crime prevention."[148] The NCPS has the following three main objectives:

- Coordination and integration of criminal justice functions through an Integrated Justice System (IJS), designed to improve the management and processing of criminal cases;

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[147] J.G. Fivaz, <u>Status Report: Transformation of the South African Police Service</u>, 7 November 1996: 5-6. As quoted in Malan, "Peacebuilding in Southern Africa," 180.

[148] Mark Shaw, "South Africa: Crime in Transition," Occasional Paper No 17, Institute for Security Studies, (March 1997): 8. This document may be found at the Institute for Security Studies website: http://www.iss.org.za/Pubs/PAPERS/17/Paper17.html

- Improved coordination and leadership among the pertinent departments with the goal of addressing high priority crime areas;

- Encouragement of research and implementation of crime prevention programs.[149]

The NCPS suggests a more unified approach to the problems of policing and criminal justice. It aims to draw together role players in government to provide a basis for restructuring the criminal justice system, and in the end, provide more effective crime prevention programs. Nevertheless, the greatest strength of the crime prevention strategy, its inclusive and comprehensive nature, also holds the potential to be its greatest weakness. The very complexity and wide-ranging nature of the strategy suggests that coordination and leadership are critical success factors.[150]

A problem with the NCPS policy is its lofty ideals from the perspective of normative democratic police reform and effective law enforcement practices are far from addressing the *basic* needs of policing. The focus is on "crime prevention" rather than specific strategies for policing, such as "community policing."[151]

Another area of concern lies in the nature of the policy formulation itself, which has been assigned to consultants and specialists outside the departments. With little experience and understanding of bureaucratic processes, these "experts" often suggest policies that are not realistic and often lie outside the realm of what is achievable. This is exemplified in the policy development during 1996. New appointments were made to policy-making posts within the National Secretariat for Safety and Security using selection criteria that had more to do with incumbents' strategic managerial skills, rather than their knowledge and experience in policing. While the new policies accepted by the Department of Safety and Security have been visionary and creative, they have failed to address issues in sufficient detail to provide clear guidelines for action. Mark Malan succinctly sums up the problem with the NCPS policy document, "Like many 'expert'

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[149] White paper on Safety and Security: In Service of Safety 1999-2004 (Pretoria: Department of Safety and Security, September 1998), Section I: 3 at http://www.polity.org.za/govdocs/white_papers/safety/s&swp.html

[150] Shaw, 8.

[151] Shaw, 8.

treatises on transformation in South Africa, however, the document is long on analysis, but very short on practical solutions."[152]

2. Professionalization of Internal Security Forces

South Africa's reform efforts entailed using existing structures and institutions and "adapting" them to new styles of policing. In contrast with El Salvador, South Africa amalgamated its eleven police forces into one new police service. South Africa did not incorporate any former combatants into their police service as El Salvador's negotiated settlement mandated, and the previous governmental institutions were already familiar with democratic ideals and governance. South Africa adopted a "community policing" style with encouragement from international actors and revised the curriculums of existing police colleges to reflect the new doctrine. The strength of South Africa's incremental approach to the transformation process is that each step of the process is debated, agreed upon, and built upon the unfolding implementation process. Each step, whether a success or not, has led to more policy formulation to combat problems encountered along the way.

a. Community Policing

Despite major investments in the NCPS, crime rates in South Africa continued to rise. Public outcry over the safety and security of citizens, together with the upcoming election year spurred the government to shift its emphasis to search for policies that lead to more effective combating of crime. In April 1997, the Department of Safety and Security published its formal policy on community policing, the Community Policing Policy Framework and Guidelines. Developed through a consultative process over a three-year period, this framework defined community policing in terms of collaborative, partnership-based approach to local level problem solving and articulated the transformation towards an effective, and accountable police force. In addition to the internal debating and collaborative approach, "community policing" was the prevailing buzzword in the international policing debate, and very much influenced the underlying police transformation process initiated by the South African government.

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[152] Malan, Police Reform in South Africa, 7.

The Policy Framework was the first explicit expression of community policing as a methodology for reducing crime by improving the professional quality of service provided by the police. Written retroactively in response to developments since the creation of the new South African Police Service, the policy document was intended for providing direction for police managers. The five core elements of community policing as outlined in the Policy Framework are as follows:

- *Service orientation:* The provision of a professional policing service, responsive and accountable to the needs of the community;

- *Partnership:* The creation of a co-operative and consultative process for problem-solving;

- *Problem-solving:* The joint identification and analysis of the causes of crime and the development of creative measures to address them;

- *Empowerment:* The establishment of joint responsibility and capacity for addressing crime;

- *Accountability:* The establishment of a culture of accountability to address the needs and concerns of the community.[153]

A vehicle for implementing community policing and improving the relationship between the police and the community was the establishment of Community Police Forums (CPFs). By September 1997, approximately 1,200 community police forums (CPFs) and sub-forums were set up at 1,221 police stations. These forums were supposed to bring the police and community closer together. However, the fact that members of the notorious Security Branch were initially used to introduce community policing has not surprisingly put a damper on community accolades. The philosophy of the democratic policing and understanding of the delicate relationship between the police and the community had not been explained to police personnel in necessary detail. As a result, there were strong feelings that community policing had concentrated to heavily on the creation of CPF structures and gaining legitimacy for the SAPS, rather than on improving the outcomes of policing in terms of better detection and crime reduction.

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[153] Pelser, 5.

Rather than viewing CPFs as a vital link between the community and police accountability, evidence suggests that communities have seen CPFs as a mechanism to control and direct the police. The main disconnect seems to be that both the communities and the SAPS have failed to grasp that community policing is more that just establishing Community Forums.[154]

b. Police Composition and Training

An important and difficult part of South African police reform efforts was to break the mold of militaristic and authoritarian policing and to effect changes in the nature and culture of the new police service. Steps were taken to professionalize and civilianize the South African Police Service management by replacing up to 13,000 uniformed personnel engaged in administrative jobs with trained civilian administrators. After the elections in April 1994, 26,000 black police from the Bantustan or homeland police forces, many of whom were officers including twenty generals, were incorporated into the SAPS. In contrast to the integration process of the SANDF, the SAPS did not receive an influx of MK personnel, although a few members of the ANC's security and intelligence structures were incorporated. By 1995, the SAPS was thirty-five percent white, fifty-four percent African, eight percent colored and three percent Asian.[155] Women constituted nineteen percent of the service.

In addition to changes in police force composition, external management expertise was sought, as police officers and advisors from a number of European and Commonwealth countries were brought in to oversee changes and advise on training and management issues. Improvements were made to training procedures, but progress remains slow. [156]

During apartheid, SAP training, carried out mainly at three training colleges (and four auxiliary schools in the black homelands) was concentrated toward military-style drilling. Basic training was followed by a counterinsurgency course at one

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[154] Malan, Peacebuilding in Southern Africa, 181-182.

[155] Statistics are quoted from Cawthra, 167. During the apartheid years, the SAP was approximately 95% white. The homeland police forces were primarily black. Current statistics for the year 2001 show black composition hovering around 65%. Women make up on average 21% of service composition in most provinces. See website for statistics within each province: http://www.saps.org.za/

[156] Cawthra, 165.

of the SADF's specialized bases, further emphasizing the military nature of apartheid training. Many researchers have pointed out that policing should be a discretionary activity requiring a detailed knowledge of the law as well as negotiation skills and an ability to assess the best course of action. Training colleges, strictly segregated by race until 1991, were gradually integrated and the emphasis on military and drilling skills in the course curriculum was reduced.[157]

The new White Paper on Safety and Security adopted in September 1998 pays significant attention to the major focus areas of law enforcement in a democracy. Specifically, these are: improved criminal investigations, active visible policing, and service to victims. Criminal investigations are to be improved by a number of specific interventions, such as increasing the number of detectives relative to the caseload and better detective training programs.[158] However, despite the considerable potential of training and retraining courses as transformation vehicles, very little has been accomplished in this area, except for still more debate, investigation and reporting on what should be done. For example, a comprehensive review and report on improved basic training for the integrated police services resulted in only one inflow of new recruits for training in 1995. Immediately following this intake, there was a three-year lull in recruitment and basic police training. There are also questions as to the viability of the new Basic Level Training plan and about the omission of continued training initiatives once recruits are incorporated into the police ranks. While there seems to be extensive international financial support, as indicated in the next section, the efficient use of those funds is questionable because of coordination and management problems between departments.[159]

c. International Assistance

Although not as extensive as in El Salvador, foreign donor assistance packages have provided developmental assistance in all areas of South African democratization. While some international actors have made conscientious efforts to spread their assistance across all core departments, others have had preferences for

[157] Cawthra, 165.

[158] White Paper on Safety and Security, Section II: 16-17.

[159] Malan, Police Reform in South Africa, 9.

specific departments. Significant assistance has been given in areas to help in the professionalization of security forces. For example, Belgium has provided assistance amounting to $3.5 million for a five-year project supporting the development of community policing, public-order policing, and combating organized crime. Denmark has given financial support of about $170,000 to "train the trainers" programs at the SAPS colleges and provided $500,000 to support a "Policing Project" at the University of Witwatersrand's Centre for the Study of Violence and Reconciliation. Sweden has made a large investment in Human Rights and Democracy Training for the SAPS, spending approximately $317,000 on workshops and training materials from 1995-1998.[160]

The United Kingdom has also focused its assistance on police training and support for community policing. A UK and Commonwealth Advisory Team helped develop a new basic level training program (BLTP) during 1995. From 1995-1998, UK financial assistance amounted to $9.4 million to support community police projects in four of the provinces. Other significant donors of police reform in South Africa include Canada, France, Germany, the Netherlands, and the United States. Intergovernmental groups from the European Union and the United Nations have also actively supported police reform efforts.[161]

International assistance should continue to specifically target the training and education of present and future members of the SAPS in both detective work and in basic law enforcement skills using international policing standards. It is at the level of basic skills training and fundamental continuing education that the greatest opportunities exist for making fundamental changes in police culture.

3. Establishment of Mechanisms of Accountability

Accountability mechanisms in South Africa's internal security forces include both external and internal control measures. First, the Truth and Reconciliation Commission (TRC) was inaugurated to delve into the past and find out the truth behind the veil of apartheid secrecy. Second, upon recommendation from the TRC report, an Independent Complaints Directorate was formed on 1 April 1997 to promote proper police conduct

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[160] Malan, Peacebuilding in Southern Africa, 183.

[161] Malan, Peacebuilding in Southern Africa, 183.

and to prevent future human rights abuses. Third, in 2001, the National Evaluation Services Division was established as an internal auditing arm of the SAPS.

a. Truth and Reconciliation Commission – Unveiling the Truth

The death toll attributed to the apartheid era differs greatly from source to source; actual numbers are often omitted, probably because they are not even attainable. Some estimate that over 1.5 million people died during the years between 1948 and 1994, associated with the apartheid struggle, while others claim only what they can document, some 300,000 deaths. The reason for this wide range in numbers is the veil of secrecy that was designed to obscure the truth of South Africa's apartheid. In 1995, Nelson Mandela, in a concerted effort to get to the truth, appointed Archbishop Desmond Tutu as Chair of the Truth and Reconciliation Commission (TRC). The TRC's objectives were "to promote national unity and reconciliation in a spirit of understanding which transcends the conflicts and divisions of the past."[162] Over the course of two and one-half years, the TRC interviewed all those who would come forward to tell their stories about the truth of apartheid's policies. In all, 21,000 victims came forward to testify about their own ordeals or about the plight of others. About 10,000 perpetrators came forward to seek amnesty. The results were compiled in a five volume, 3,500 page document, the Truth and Reconciliation Commission Report, presented to Nelson Mandela in 1998.[163]

Apartheid practices embodied the systematic elimination of thousands of voices, which should have been part of the nation's memory. Perhaps all governments, to a greater or lesser extent, uncomfortable with the notion of transparency, prefer to operate beyond the glare of public scrutiny. However, in apartheid South Africa, government secrecy was a way of life. The elimination of memory took place through censorship, confiscation of materials, bannings, incarceration, assassination and a wide range of related actions. The fundamental guideline governing public access to and destruction of state records was provided in the 1962 Archives Act. However, selective destruction of state records beyond the parameters of the Archives Act was pervasive within the security establishment in the period 1960 to 1990. This reflected apartheid's tendency to

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[162] Cited on website: http://www.uaa.alaska.edu/just/just490/truth.html

[163] Ibid.

operate in a highly secretive manner and the fact that sensitive records were not subject to the operation of the Archives Act. Between 1990 and 1994, selective destruction became a systematic endeavor authorized by the Cabinet and reaching into all sectors of the state. It is clear that the former apartheid regime meant to prevent the new government from access to many incriminating and sensitive documents. Those responsible continued to maintain that their motive was simply to protect intelligence sources and the legitimate security interests of the state. The evidence demonstrates that the destruction went far beyond this. Those responsible maintain that the effort was entirely legal. They argue that 'state sensitive' records fell outside the definition of records, which were subject to the Archives Act.[164]

Because of their findings, the TRC acknowledged that the picture it gained of the apartheid truth was far from complete. It had searched through reams of government records, launched investigations into secret burial grounds, exhumed bodies of victims, and examined activities of all the organizations involved on all sides of the conflict. Businessmen, churchmen, lawyers, doctors, the media, and people from all walks of life were interviewed. Nevertheless, the systematic erasure of popular memory had taken its toll. Much more remained buried than had been exhumed.[165] However, the sheer magnitude of the TRC's investigation and reconciliation attempt exemplifies the government's political will to provide transparency and a collective memory. In order to gain legitimacy in the future, it was believed that acknowledgement of the past was needed so that the new democratic state could move forward.

b. *Independent Complaints Directorate*

Section 208 of the Constitution, which states that a civilian secretariat for the police service must be established under the responsible minister, provides the vision of democratic civilian control over the police. Theoretically, this should protect the police from inappropriate interference and control by any one political party. Accountability was further enhanced by the creation of an Independent Complaints Directorate (ICD) under chapter ten of the Police Act. With substantive investigative

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[164] TRC Report, volume 1, Chp 8, para 10.

[165] Martin Meredith, Coming to Terms: South Africa's Search for the Truth, (New York: PublicAffairs, 1999), 287.

powers, the ICD began operating in April 1997, and is considered a crucial tool for civilian control over the South African Police Service (SAPS). It has its own budget and offices, and should prove effective in deterring the abuse of police powers.

So far, the ICD has received over 8,000 complaints of alleged police misconduct in the past four years of its existence. A biannual report is sent to the Minister of Safety and Security on the status of impending investigations. The pertinent areas of the Police Act and TRC report authorizing the powers of the ICD can be viewed on the ICD website. The complaints process is also explained in detail with an online registration form for lodging complaints. The biannual reports on the status of impending investigations can also be viewed from the website, as well as, the results of closed cases.[166] The results of these reports and the transparency/accessibility of the complaints process seem to indicate that the SAPS has well-functioning mechanisms of accountability. However, it is still too early to give a complete evaluation of the complaints process.

c. *National Evaluation Services*

In April 2001, the National Evaluation Services (NES) was created within the SAPS as a division with four main functions: (1) service delivery evaluations; (2) service investigations; (3) occupational health & safety; and (4) internal auditing.

This division is regarded as a support function division of the SAPS specifically responsible for supporting management in the assessment of service delivery standards and performance relating to service delivery. The division is also required to evaluate compliance to Occupational Health and Safety standards. The internal auditing capacity of the SAPS reports under this division for administration purposes. The division is also responsible for national standards and policy relating to evaluation of community service in the SAPS. Although there are evaluation services components on area and provincial levels reporting operationally to the area commissioner and provincial commissioner respectively, such components function in accordance with national policies and guidelines issued by this division. The division has a national capacity for

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[166] The ICD website is found at: http://www.icd.gov.za/

national level evaluations and interventions. The division is accountable to a National Steering Committee on Service Delivery.[167]

C.   CONCLUSION – TRANSITION, NEGOTIATION, AND REFORM

El Salvador and South Africa's negotiated war transitions provided the necessary opening to affect major demilitarizing internal security reforms. The degree and nature of their respective reform efforts was dependent on the interests and balance of power of the key actors affected by the reforms. In each case, different actors had the dominant power role and their interests affected the different approaches to internal security reform. In El Salvador, the ARENA party retained the power, and the FMLN negotiated from a disadvantaged position. This encouraged an agreement consisting of a "shock treatment" approach to internal security reform. Conversely, in South Africa, where the ANC negotiated from an advantage of power and support, the resulting approach to internal security reform was more relaxed, incremental, and gradual. The war transitions of each country opened "windows of opportunity," allowing the international community to affect the negotiations, and the ensuing internal security reforms. Surprisingly, both approaches, although very different (radical vs gradual) together with the different balances of power (rightist government vs opposition) produced similar outcomes – middle of the road reform measures. This can best be explained by the overwhelming obstacle to the consolidation of police reform posed by the conditions of post-conflict societies, the subject of the following chapter.

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[167] Information pertaining to this new division is found on the SAPS website. Information about the efficacy of this new division is not available yet.

IV.   CHALLENGES TO CONSOLIDATION OF POLICE REFORM

Although the resolution of armed conflict often provides an opening for police reform during democratic transitions, it also creates serious obstacles to reform consolidation. This chapter argues that many of the challenges faced by El Salvador and South Africa were the result of post-conflict conditions. There are five challenges in this category. The first challenge involves the existence of a transitional security vacuum resulting from demobilization of combatants and increased weapons throughout society. Largely related to this vacuum is the second challenge, which involves the increased level of crime that is pervasive in post-conflict societies. The third challenge also related to the crime problems of post-conflict societies is the creation of parallel police forces that undermine the police force's ability to develop their in-house capabilities. The fourth challenge involves the timely creation of mechanisms of accountability to ensure that past habitual practices of abuse are not repeated. The fifth challenge of post-conflict societies involves the implementation of simultaneous judicial reform. The increase in violence and crime associated with post-conflict societies makes the processes of applying justice to criminals also important. Continuance of corrupt and inefficient processes for prosecuting criminals can undermine the successes of police reform.

This chapter also describes the role of international actors in implementing and consolidating police reform efforts. International actors are more likely to have the opportunity to affect police reform during negotiations of peace accords. However, their actual level of influence depends on the level of domestic support and the ability of international actors to sustain commitment to the reforms over time. Two main challenges are discussed. First is the issue of funding. Reluctance in providing promised funds for whatever reasons aggravates the crime surge characterizing post-conflict societies. Ambiguities and issues regarding specific strategies on how the money will be spent should be clearly worked out during the negotiation process in order to keep implementation on track. Lack of strategy and hesitation in this area can quickly derail efforts.   The second international challenge involves the competing interests of

international actors, which can undermine reform efforts especially when significant aid was given during the conflict era.

The experiences of El Salvador and South Africa suggest that there are no clear-cut methods of successfully reforming militarized police forces. Surprisingly, although each country exhibited different levels of support among various actors, and different approaches ("shock treatment" vs gradual) the outcome of their efforts was surprisingly similar – middle of the road reforms. Although both countries had internal conflicts resulting in militarized police forces, South Africa seemed in a much better position to face the challenges of consolidation. First, South Africa's military did not pose any opposition to police reform, whereas in El Salvador the legacy of the military's control over the police meant military reluctance to reform. Second, the results of the foundational elections in South Africa gave the advantage to the opposition, while in El Salvador, the continuance of the rightist ARENA government meant less domestic political support for reform. Third, greater domestic support in South Africa meant that the international community had a greater ability to influence the implementation of reform. However, the outcome of reform efforts in both countries was surprisingly similar. This can best be explained by the overwhelming obstacle to the consolidation of police reform posed by the conditions of post-conflict societies.

A.   THE CHALLENGE OF POST-CONFLICT SOCIETIES

The challenges emerging from post-conflict conditions cannot be underestimated as serious inhibitors to consolidation. Post-conflict societies have experienced years of violence and repression that create four challenges: the emergence of a transitional security vacuum, crime surges, the emergence of parallel police forces, and the slow development of mechanisms of accountability. The following sections address those challenges.

1.   Transitional "Security Vacuum"

Where conflict ends in negotiations, as in the cases of El Salvador and South Africa, a vacuum in the availability of security to civil society often results. The forces providing security in the past are often disbanded, discredited, or are in a state of disorganization. Peace agreements often restrict existing military forces to the barracks,

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as in El Salvador. In other cases, such as South Africa, where incremental change has allowed continued military involvement in internal security, lack of needed resources, especially in many rural areas has contributed to the "vacuum." Additionally, fledgling democracies are generally unprepared to deploy a well-trained police force throughout the state immediately following a cease-fire, or peace agreement. Indeed, this lack of preparation has become the primary focus in dealing with "public security gaps" identified in recent United Nations peacekeeping operations.[168] As a result, political leaders are tempted to keep the military involved in internal security. This has occurred in South Africa's police reform efforts.

Conflicts ending in negotiations frequently require a marked degree of demobilization of government and insurgent combatants. Demobilization occurs for political reasons, as well as financial reasons. Politically, transitioning regimes have an interest in implementing much needed internal security reforms including the demobilization of insurgent groups. Economically, surplus soldiers are costly, and the expansion of governmental troops due to internal conflict is no longer necessary. Still, demobilizing significant number of former combatants carries considerable risks for public security. Disgruntled and demobilized troops, trained in the use of firearms and organized in tightly knit groups can be easily lured into criminal networks. Criminal activities can be attractive alternatives for former combatants facing shrinking job markets and increases in unemployment as a direct result of demobilization.

In South Africa, the downsizing or "rightsizing" of the swollen numbers in military personnel following integration is still ongoing in South Africa today, as the military faces reducing its numbers by another 15,000. The fears of demobilizing large numbers of combatants who face impending unemployment has prompted South Africa to invigorate the vocational training available through the Service Corps, a transitional unit where ex-military can go to school for one year and prepare to enter the civilian job market. Although this program for helping in the transition phase to civilian life is quite welcome for ex-soldiers, the reality is that current high unemployment rates make the

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[168] For a variety of discussions on this topic, see Oakley, Dziedzic, and Goldberg.

possibilities of finding civilian employment very difficult, with or without vocational training.

An important by-product of demobilization is the surplus of conventional arms and the availability of more powerful weapons throughout society. Demobilized soldiers often take their weapons home or sell them on the black market. Demobilization necessarily requires extremely aggressive and thorough disarmament methods. If these methods are not seriously undertaken, the surplus of arms is apt to find its way to organized crime sectors.

### 2.	Crime Surges – Role of the Military in Internal Security

An inevitable side effect of the transitional security vacuum is the surge of crime, which can spike to unprecedented levels following transition from authoritarian rule. While rises in crime are common to most democratic transitions, the conditions of conflict termination heighten the crime problem. The reduction of public security personnel due to demobilization upon conflict termination adds to the problem. In El Salvador, the military and private sector expressed concerns that the number of public personnel would be too few to handle the crime surge. This may have contributed to the government's position on delaying the demobilization of the National Police (NP).[169] Government resistance to the dissolution of the NP also reflects their trust in the old security forces. Additionally, in many rural areas, there was significant support for the National Guard, whose presence had comprised the only public security for these communities for the past decades.

Because of the crime problem, within two months of the ceasefire, El Salvador's government converted two security forces into border patrol and internal military police units of the army rather than dissolve them as agreed to in the accords.[170] In 1993, the Salvadoran government, without formally informing the legislature, began deploying military units in quasi-public security roles to patrol highways and assist in the protection of the coffee harvest. Although these measures enjoyed popular support, they were in

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[169] Call, 146.

[170] "Report of the Secretary General on the UN Observer Mission in El Salvador," UN Document No S/23999, 26 May 1992. According to Addendum 1, June 12 1992, ONUSAL helped obtain agreement on these issues, which paved the way for the dissolution of the National Guard and the Treasury Police.

direct violation of the accords and the constitution and were viewed by the FMLN and their supporters as potentially threatening. Concerns were raised about the potential remilitarization of internal security. Additionally, in March 1995, the government initiated Plan Guardian, creating military and civilian police joint commands to conduct patrols in particularly violent public order situations in the rural areas of El Salvador. The UN has repeatedly questioned these measures stating that there should be a definite demarcation between the military's external defense and civilian police's internal security responsibilities. Yet, public outcry about the crime situation continually results in governmental measures that could potentially undermine the extent of reform and institutional consolidation of the PNC.[171]

In South Africa, the decision to keep the internal role of the SANDF was a direct result of the high levels of crime both before and especially after transition to democracy. This has been a particularly controversial and sensitive issue. The conventional view is that parliament would not seek the mission of internal order if it were not for the high levels of crime and violence and the widespread proliferation of weapons in private hands. Public outcry about the growing crime problem has resulted in calls for further military involvement.[172] However, clearly established rules of engagement, security chains of command, and agreement on the committed duration of the SANDF must be addressed in order to prevent the misuse of the armed forces in public security roles.

Finally, the years of violence in society due to internal conflict has conditioned citizens to believe that violence and counter-violence are the only solutions to solving social problems. In both El Salvador and South Africa, citizens became accustomed to violence, killing, assassinations, bombings, abuses and corruption, all of which eroded the moral fiber of society and created severe psychological suffering. Once peace was achieved, this social conditioning to violence paved the way for the development of delinquency and crime.

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[171] Stanley and Call, 123.

[172] Winkates, 463.

3.   Parallel Police Units

Largely related to the crime problem in post-conflict transitions, a serious problem, which developed in El Salvador, was the formation of "parallel" units duplicating specialized divisions of the newly reformed police. In El Salvador, Public Security Minister Hugo Barrera formed an anti-kidnapping unit, which duplicated the PNC's Criminal Investigations Division, however, it was funded privately by businessmen and headed by a Venezuelan citizen.[173] Part of the impetus for this unit was the lack of experience in the new police forces and the need for prompt and effective response to increased crime. While the importance of effective responses to increased crime is apparent, this choice for expediency undermines the legitimacy of the new force and the development of its own in-house capabilities.

In South Africa a similar problem with roots dating back to the "Total Strategy" era was the development of vigilante groups and private security companies. Due to the huge increase in crime stemming from the transition to democracy, an associated increase in vigilantism was seen, especially in the rural areas where policing was minimal. In the wealthy and mostly white areas, private security companies were the vogue, and continue to be to this day. Although many see this rise as helping in controlling crime and keeping neighborhoods safe, their existence, along with the continued use of the military in internal security roles is inhibiting the growth and effectiveness of the SAPS. In recent years, a number of individual private security firms have approached the SAPS with requests for the formation of partnerships on an ad hoc basis. While these offers seem tempting, however, the fact that there are currently no fixed policy guidelines on how these partnerships should be formalized leaves too much gray area in operationalizing such partnerships.[174]

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[173] Chuck Call, "Police Reform, Human Rights, and Democratization in Post-conflict Settings: Lessons from El Salvador," (USAID conference: Promoting Democracy, Human Rights, and Reintegration in Post-conflict Societies, October 30-31, 1997): 6.

[174] For more detailed information about the pros and cons of partnership policing see Anthony Minnaar, "Partnership Policing: A Role for the Private Security Industry to Assist the SAPS in Preventing Crime?" African Security Review 8, no. 2, (1999).

4.   Mechanisms of Accountability

Oversight units should be developed and deployed simultaneously with the new operational police forces in order to prevent the development of bad habits and to instill an expectation of accountability among the police and civil society. Equally important are external mechanisms of accountability, such as the media, non-governmental organizations (NGOs), legislative oversight, and the establishment of civilian courts' authority over police abuse cases. However, when the deployment of oversight units is slow, the potential for human rights abuses increases.

In South Africa and El Salvador, the deployment of oversight offices was extremely slow. In El Salvador, the Disciplinary and Control Units lagged behind the deployment of the PNC by one year. Additionally, the Inspector General for the PNC was not appointed until October 1995, over three years after the signing of the peace accords. On a similar note, South African police reform efforts did not establish the Independent Complaints Directorate (ICD) until 1997, two years after the creation of the South African Police Service (SAPS). It is critical when reforming corrupt and abusive forces that an oversight and accountability system exists to watch over the progression of reforms. Without oversight, the temptation to maintain the previous "status quo" is too great, and opens the door to increased societal distrust of the democratic reforms of the new government.

The report card on the human rights performance of the PNC and the SAPS remains far superior to that of the old security forces. Cases of homicide and torture by PNC and SAPS officers have become the exception rather than the rule. Former National Police officers now in the PNC have reported that under the new police, abuses are often reported by fellow PNC officers. This would have been unheard of in the old regime.[175]

Transition to civilian policing, however, does not necessarily mean a transition to an accountable police force. In 1995, the popular perception was that the PNC's human rights record was getting worse. Citizen comments comparing the PNC to the old PN became commonplace. This may have been in part due to the excessive use of force in 1995 in responding to public demonstrations, labor strikes, and protests. Two people

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[175] Stanley and Call, 118.

were killed in such protests, and police officials agree that in some cases excessive force was used. These incidents have marred the public image of the PNC in terms of human rights. Moreover, slow development of institutions of accountability have facilitated the rise in PNC abuses. The lack of a working Office for Internal Affairs and Discipline during the first year of the PNC's existence contributed to lax standards of conduct during the developmental months of the new force.[176]

Similarly in South Africa, highly publicized incidents of police indiscretions, ranging from lack of good judgment to death of citizens while in police custody have tainted the public's perception of the SAPS. It does not help that soaring crime rates have been difficult to control and contributed to a view that the SAPS is not able to handle security problems. However, overall, the incidents of human rights abuses and indiscretions are much lower than during the apartheid era, when torture and execution were commonplace.

Social conditioning also contributed to challenges in the area of impunity. Mechanisms of accountability were non-existent under the authoritarian regimes of El Salvador and South Africa, and "excess of authority" was rewarded. Because virtually no military or police officers were ever prosecuted for human rights abuses during El Salvador's civil war and South Africa's apartheid, the idea of making complaints and accountability to civil society was foreign to citizens. These factors created a degree of social conditioning to violence and impunity, which impeded (especially in rural areas) civil society's ability to adjust and make meaningful contributions to the new security systems.

5. Absence of Simultaneous Judicial Reform

El Salvador's judicial reforms were not only far less specific than police and military reforms, but were largely ignored until the last minute during negotiations. Consequently, the enactment of judicial reforms such as purging the bench, depoliticizing the Supreme Court, and streamlining procedures and laws were slow and incomplete. National Civilian Police (PNC) agents were frustrated with problems at the judiciary level that frequently resulted in the release of suspects. Additionally, new police agents

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[176] Stanley and Call, 118.

made many procedural errors and their inexperience contributed to these outcomes. Nevertheless, police reform must focus increased attention to the judicial reforms to prevent corrupt practices that were the legacies of the previous authoritarian regime.

In South Africa, judicial system reforms are a monumental problem and viewed by many as in a state of crisis. Reform efforts after 1994 concentrated almost exclusively on the most visible component of policing. Community policing has been the "buzzword" of reform efforts designed to sell the acceptability of the new SAPS to the majority of the South African public. However, the transformation within the criminal justice system is far from complete. The most serious problems are in the areas of crime detection, prosecution of offenders, and the prison system.

In the area of prosecution, the problem boils down to the inexperience of public prosecutors and the poorly managed magistrates courts. Constant postponements frustrate witnesses. Often they fail to appear in court when the cases are finally heard. Additionally the coordination between justice and police officials is lacking. Often prosecutors and investigating officers meet for the first time at the trail. Evidence seems to indicate that the problem lies with the lack of skill in middle management.[177]

Finally, South African prisons are in dire need of reform. Ironically, during apartheid, when as many as four out of every one thousand citizens were jailed, the prisons were better managed and staffed. However, staffing shortages and increasing corruption are bringing prisons to the brink of crisis. A large part of the problem lies in the rigidity of the penal system. Alternative forms of sentencing are unavailable. Furthermore, the Department of Correctional Services determines parole, inviting bribery as an easy mechanism to relieve pressure on the prison system. Corruption throughout the justice system seems to be pervasive. The challenge awaiting policy makers in this area will likely be one of the most significant in the next few years.[178]

B.   THE CHALLENGE OF INTERNATIONAL ASSISTANCE

War transitions provide an opening for international actors to affect major police reforms. Negotiations of peace treaties provide a tremendous opportunity for

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[177] Shaw, 6.

[178] Shaw, 7.

international actors to affect police reform efforts. In both El Salvador and South Africa, the United Nations played a central role in mediating and negotiating peace accords between bitter parties, and their influence is apparent in the content of the accords. El Salvador's police reform efforts were stipulated in great detail within their peace accords, whereas in South Africa, the peace accords were not nearly as specific. Instead, after peace was achieved, police reform efforts were more debated and negotiated internally, from within the state. The difference in the approaches, as earlier argued is attributed to the balance of power among the actors most affected by the reform. However, the type of approach also affected the level of international influence in formulating reform measures. Because the details of El Salvador's police reform were stipulated in the accords, the international community's influence was higher. In South Africa, international influence was less because reform measures were debated *after* peace was achieved.

Although international actors are more likely to have the opportunity to affect police reform during negotiations of peace, their *actual* level of influence during implementation depends on the level of domestic support and the ability of international actors to sustain commitment to those reforms over time. The level of influence can be analyzed by examining the challenges of aiding post-conflict countries in their quest at reforming corrupt and abusive police forces. The first challenge was the process involved in providing funding for police reform efforts. In March 1992, the World Bank, the Inter-American Development Bank, the International Monetary Fund, and nineteen countries pledged an unprecedented $800 million to support the reform process in El Salvador. However, by August 1992, no donors had provided funds except for the United States and Norway. International support was lacking partly due to the perception that the Salvadoran government and military were not committed to the reforms. International support was also lacking because donors viewed crises in other parts of the world as more serious and believed the U.S. had a primary interest in El Salvador because of its long involvement there.[179] Furthermore, international support for public security aspects of the peace process was much lower than for other areas, such as land transfers. One reason for this international reluctance stemmed from negative past

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[179] GAO/NSIAD-92-338, <u>Aid to El Salvador</u> (September 1992): 7.

experiences with police aid that fed corruption rather than reforming police forces.[180] International reluctance to commit resources and personnel can aggravate the crime surge that follows war transitions. The importance of providing adequate funding for internal security reforms cannot be overemphasized in that it affects all citizens and has a major impact on the political environment of the country.

Additionally, the high cost of the PNC project was attributed to creating a completely new force to overcome the problems of earlier corruption. Yet, international donors were initially leery. International donors incorrectly perceived that savings in Salvadoran military budgetary cuts would be able to fulfill most of the funding requirements. International perception was that domestic political support was lacking and that this lack of support was responsible for El Salvador's inablilty to fund its own police reform efforts. However, in reality, there was little room for savings in any spending categories because of the urgent postwar need to increase spending in health, education, and poverty alleviation.[181] Thus, international influence depends not only on the actual level of domestic support, but also on the perceived level of domestic support for police reform.

International competing interests can also affect internal security reform efforts. One example is with the U.S. support and interest in preserving the Executive Anti-Narcotics Unit (UEA) and the naming of Captain Peña Durán (former Chief of the UEA) for the post of Deputy Director of the PNC thereby endangering the conduct of the new police force. U.S. financial investment during the Cold War and close advisory ties to the UEA, led the U.S. government to cling to this unit and their members during the transition to democracy. Evidence suggests that U.S. officials believed Peña Durán to be "clean" and willing to affect reform within the PNC. In the end, because of increased publicity of Peña Durán's gross violations of the accords and continued UN criticism, the U.S. finally changed its position. U.S. reluctance to demobilize the corrupt UEA and oust Peña Durán from the PNC reflects the "parochial affinity" toward units that were supported during the Cold War.[182] This undermined the process of purging bad elements

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[180] Stanley and Call, 125.

[181] Stanley and Call, 125-126.

[182] Call, 169-171.

from the new security forces. As a result, even as international actors were central to aiding the reform process, they simultaneously worsened efforts.

After peace was achieved in South Africa, police reform was gradually negotiated, evaluated, and reformulated gradually. In contrast to El Salvador, international actors proved capable of influencing reform measures. International criminal experts were brought in and helped formulate the "model" of policing that took shape. Community policing, the "buzzword" of international democratic policing was implemented, with varying levels of success. Nevertheless, the international influence is apparent in the comprehensive white papers and policy papers produced through expert debate. The international community was able to provide more influence because domestic political support was very high.

C.   CONCLUSION

The unfolding police reform experiences of El Salvador and South Africa demonstrate the many challenges and dilemmas facing security transformation in war transitioning countries. Major challenges resulting from post-conflict conditions involve the transitional security vacuum, surges in crime, the creation of parallel police forces, the difficulty in creating meaningful mechanisms of accountability, and the challenge of implementing simultaneous judicial reform. Interwoven with these domestic challenges are the challenges of the international community in providing the much needed assistance to implement the reform processes. Although international actors have provided overwhelming amounts of aid, the challenges in the areas of funding, and international competing interests have simultaneously aggravated efforts.

The experiences of El Salvador and South Africa suggest that there are no clear-cut methods of successfully reforming militarized police forces. Surprisingly, although each country exhibited different levels of support among various actors, and different approaches ("shock treatment" vs gradual) the outcome of their efforts was quite similar – middle of the road reforms. While both countries had internal conflicts resulting in militarized police forces, South Africa seemed in a much better position to face the challenges of consolidation. First, South Africa's military did not pose any opposition to police reform, as was the case in El Salvador. Second, the results of the foundational

elections in South Africa gave the advantage to the opposition, while in El Salvador, the continuance of the rightist ARENA government meant less domestic political support for reform. Third, greater domestic support in South Africa meant that the international community had a greater ability to influence the implementation of reform. Again, the outcome of reform efforts in both countries was remarkably similar. This can best be explained by the overwhelming obstacle to the consolidation of police reform posed by the conditions of post-conflict societies.

Countries transitioning from authoritarian rule to democracy that have experienced internal conflict or civil war (war transitions) face profound transformation. Often centuries of colonial, racist, or military rule have left deep scars on the fabric of society. Many of the challenges faced by El Salvador and South Africa are shared with other developing countries transitioning from conflict. The lessons learned from the experiences in El Salvador and South Africa can effectively contribute to the design of future interventions, in Southern Africa, Latin America, and in other countries and regions where criminal justice is in a state of post-conflict transition. After the inauguration of new democracies founded on principles of liberty and equality, nations can move towards becoming societies of free citizens, living in peace with itself and its neighbors and made up of citizens who manifest, and enjoy mutual respect for their fellow citizens. However, this idealistic vision is highly dependent on the ability of the state, government, and citizenry to cast off the inheritances of the past. This is true for all social institutions, public or private. Above all, it demands that the institutions of policing and justice can come to terms with the demands of a new age.

This transformation of new civilian policing institutions is perhaps the most profound and difficult. After all, we are not talking about new and fashionable policies. The principles of governance, which underpinned authoritarian regimes, are often fundamentally so different from those of the new "disorder" that change is neither immediate nor easy. The choices made today will effect the very foundation of the new social order. Therefore, these choices should be made carefully, wisely, and boldly.

Transformation of police will not occur spontaneously. The choice of policing in the new regime falls within the fundamental decisions of a new democratic society. It

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follows that the demilitarization of civilian police forces is central to the police reform course that is charted. First, and fundamentally, demilitarization must include the establishment of institutional boundaries between the military and the civilian police forces. This included changes in their structure, and establishment of civilian control, fundamental to good civil-military relations in democratic consolidation. Second, in order to change the nature and culture of corrupt police forces, professionalization must be given priority. Training, both initial and continuing, in minimal use of force, and community policing methods will go a long way towards minimizing the resurgence of past human rights abuses, addressing citizen grievances, and winning the confidence of the communities they serve. Third, the institutional linchpin of democratic governance, police forces must adopt meaningful oversight and accountability mechanisms. *Any democratic institution which does not have adequate accountability procedures (checks and balances) risks losing legitimacy, which can lead to crisis and eventual breakdown.*

This thesis has shown that war transitions afford key opportunities to reform corrupt and repressive internal security apparatuses. However, the degree and nature of internal security reforms depends on the interests and balance of power of key actors affect by the reform. Furthermore, the challenges that affect the consolidation of internal security reform in war transitions are related to the overwhelming challenges related to post-conflict conditions. Finally, negotiated transitions provide an opening for international actors to affect major police reforms. Although international actors are more likely to have an opportunity to affect police reform during negotiations of peace treaties, their actual level of influence depends on the level of domestic support and the ability of international actors to sustain commitment to those reforms over time.

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